

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

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APPENDIX A

Christina Adkins

July 20, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, ET AL)
)
 PLAINTIFFS,)
)
 VS.) CIVIL ACTION NO.
) 5:21-CV-844 (XR)
) (CONSOLIDATED CASES)
 STATE OF TEXAS, ET AL,)
)
 DEFENDANTS.)

ORAL DEPOSITION OF

CHRISTINA ADKINS

JULY 20, 2022

ORAL DEPOSITION of CHRISTINA ADKINS, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 20th day of July, 2022, from 9:00 a.m. to 3:06 p.m., before Gabriela S. Silva, CSR, RPR in and for the State of Texas, reported by stenograph, at William P. Clements Building, 300 W. 15th Street, Austin, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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<p style="text-align: right;">Page 70</p> <p>1 number, they should put down the last four digits of</p> <p>2 their social, and if they have neither, they should</p> <p>3 check the box that says they have neither?</p> <p>4 MRS. HUNKER: Objection, form.</p> <p>5 A. I would agree that generally it says that. I'd</p> <p>6 have to look at the specific words, but conceptually,</p> <p>7 yes.</p> <p>8 Q. (By Mrs. Yun) Okay. Are there any plans to</p> <p>9 change this official position of recommending voters to</p> <p>10 put down both numbers?</p> <p>11 A. Just -- again, just to clarify, when asked, we</p> <p>12 tell people we recommend if you have concerns to put</p> <p>13 down both numbers, but you're not required to. And that</p> <p>14 -- I don't -- I'm not aware of any plans to change that.</p> <p>15 Q. Okay. Can you think of any other instances of</p> <p>16 guidance or recommendation that is inconsistent with the</p> <p>17 text that is on the form?</p> <p>18 MRS. HUNKER: Objection, form.</p> <p>19 A. I don't agree that that's inconsistent with the</p> <p>20 text on the form.</p> <p>21 Q. (By Mrs. Yun) Okay.</p> <p>22 A. Yeah.</p> <p>23 Q. Would you agree that it's different from what is</p> <p>24 on the form?</p> <p>25 A. I don't know if I would agree with that either.</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. How would you describe the difference</p> <p>2 between what is being recommended to voters about</p> <p>3 putting both numbers down and what is on the -- on the</p> <p>4 ABBM forms?</p> <p>5 MRS. HUNKER: Objection, form, vague,</p> <p>6 ambiguous.</p> <p>7 A. Because the form itself reflects the text of the</p> <p>8 law, but the corrective action process and the remedies</p> <p>9 that are available to voters that have a missing or</p> <p>10 incorrect personal identification number are much</p> <p>11 broader than that. And the instructions to the Early</p> <p>12 Voting Clerk and the Ballot Board and/or Signature</p> <p>13 Verification Committee when they're validating those</p> <p>14 numbers don't say anything about prioritizing one or the</p> <p>15 other.</p> <p>16 So as a practical matter, there's an instruction</p> <p>17 to the voter, but it's -- as far as the application of</p> <p>18 the law, it's -- I think the recommendation we're giving</p> <p>19 is consistent with what the law contemplates.</p> <p>20 Q. (By Mrs. Yun) Okay. So it's your position -- am</p> <p>21 I understanding your testimony just now correctly, and</p> <p>22 please correct me if I'm wrong, that because there is a</p> <p>23 separate provision that -- there's a provision that says</p> <p>24 what should be on your -- on the form, on the two forms</p> <p>25 and then there's a separate provision that instructs the</p>
<p style="text-align: right;">Page 72</p> <p>1 Ballot Board how to verify or process those forms and</p> <p>2 the text of those two provisions are not the same, you</p> <p>3 believe, that your guidance to the voters is consistent</p> <p>4 with those two provisions put together?</p> <p>5 MRS. HUNKER: Objection, form, compound,</p> <p>6 ambiguous.</p> <p>7 A. If I understand correct, the law is specific with</p> <p>8 the instructions that the voter is -- receives with</p> <p>9 respect to the forms itself. The law does not or the</p> <p>10 law's a little bit different with respect to the person</p> <p>11 evaluating the Ballot by Mail application and the Ballot</p> <p>12 Board reviewing that information as to what they need to</p> <p>13 validate.</p> <p>14 So I think that our recommendation or our advice,</p> <p>15 what we tell voters in this situation, encompasses both</p> <p>16 components; both what the voter needs to put, and what</p> <p>17 needs to be considered for -- to make it a legal</p> <p>18 document, you know, legally compliant document.</p> <p>19 Q. (By Mrs. Yun) Would you be able to put that</p> <p>20 recommendation on the form?</p> <p>21 MRS. HUNKER: Objection, form, calls for</p> <p>22 speculation.</p> <p>23 Q. (By Mrs. Yun) I'm sorry. Is it legally</p> <p>24 permissible for you to put that recommendation, say --</p> <p>25 saying, We recommend, but it is not required for you to</p>	<p style="text-align: right;">Page 73</p> <p>1 put both numbers down?</p> <p>2 MRS. HUNKER: Objection, calls for legal</p> <p>3 conclusion.</p> <p>4 A. I don't know. I'd have to talk to my team about</p> <p>5 it and probably talk to our general Counsel about it.</p> <p>6 You know, there are provisions in the law that say that</p> <p>7 we cannot waive, modify or suspend state law, so we have</p> <p>8 to be very careful when we are prescribing an official</p> <p>9 form to make sure that it accurately reflects the text</p> <p>10 of the law as it relates to that situation. And so I --</p> <p>11 you know, any modification to that, I'd have to double</p> <p>12 check with, like, the rest of our team and our general</p> <p>13 Counsel.</p> <p>14 Q. (By Mrs. Yun) Has that idea ever been discussed?</p> <p>15 A. I don't recall if we've discussed that or not.</p> <p>16 There's also space issues on these forms because the</p> <p>17 legislature has prescribed very specific language in</p> <p>18 certain circumstances. When you look throughout Chapter</p> <p>19 84 and 86 and 87, I think a little bit here and there,</p> <p>20 there are very, very specific requirements and not a</p> <p>21 whole lot of room to deviate from that on any of our</p> <p>22 forms.</p> <p>23 Q. Okay. Has your office received any complaints</p> <p>24 regarding confusion as to what number they're supposed</p> <p>25 to put down in the mail voting forms?</p>

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<p style="text-align: right;">Page 78</p> <p>1 speak about, you know, voting -- you know, the programs</p> <p>2 that they offer to help military and overseas voters.</p> <p>3 They have some voter guides on their website and so we</p> <p>4 correspond with them regularly to make sure that the</p> <p>5 information they have on their website is updated and</p> <p>6 accurate. And I mean, it's -- yeah, that kind of stuff.</p> <p>7 Q. Understood.</p> <p>8 A. All in the interest of helping, helping voters.</p> <p>9 Yeah.</p> <p>10 (Exhibit Number 10 was marked.)</p> <p>11 Q. (By Mrs. Yun) I'm handing you what's been marked</p> <p>12 as Exhibit 10. Bates-numbered 019849. Do you recognize</p> <p>13 this document?</p> <p>14 A. I do.</p> <p>15 Q. And what is it?</p> <p>16 A. It appears to be a copy of Advisory Number 22-08</p> <p>17 that was issued in January of this year.</p> <p>18 Q. And we talked about election advisories in</p> <p>19 general earlier. Would you say -- you said that there's</p> <p>20 some routine ones and there's some medior ones and</p> <p>21 bigger ones. Which category would you put this in?</p> <p>22 A. This is definitely in the bigger category, yes.</p> <p>23 Q. Okay.</p> <p>24 A. Anything that's a change in policy or reflective</p> <p>25 of legislative changes would be big.</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. So you were involved in drafting this</p> <p>2 advisory?</p> <p>3 A. Yes.</p> <p>4 Q. And reviewing it also?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And is it accurate to say that election</p> <p>7 advisories are intended for election officials, county</p> <p>8 officials in the state of Texas?</p> <p>9 MRS. HUNKER: Objection, form.</p> <p>10 A. I would say that they're intended for a broader</p> <p>11 audience than that. It's not just counties that run</p> <p>12 elections. Local election officials also run elections,</p> <p>13 cities, school districts and whatnot. And we consider</p> <p>14 our advisories, to the extent that we can, binding on</p> <p>15 all the election officials that are using them.</p> <p>16 Q. (By Mrs. Yun) Okay. Understood. Election</p> <p>17 officials, but not necessarily voters. Would that be</p> <p>18 accurate?</p> <p>19 A. It depends on the advisory.</p> <p>20 Q. Okay.</p> <p>21 A. It depends on what we're discussing.</p> <p>22 Q. I see.</p> <p>23 A. Yeah.</p> <p>24 Q. Would you say that this advisory, given that the</p> <p>25 To line says, Election Officials, the intended audience</p>
<p style="text-align: right;">Page 80</p> <p>1 is election officials and not voters?</p> <p>2 A. I think generally, but I'd have to -- if there's</p> <p>3 a specific section in there, I'd, you know, I can look</p> <p>4 at that specific section. I think our audience is</p> <p>5 election officials, but that doesn't mean it doesn't</p> <p>6 apply broadly to other folks out there.</p> <p>7 Q. Right.</p> <p>8 A. Like, the information is not limited to other</p> <p>9 folks.</p> <p>10 Q. And how is this -- how are election advisories</p> <p>11 generally disseminated?</p> <p>12 A. They're disseminated in two different ways. We</p> <p>13 will send an e-mail to all of the county election</p> <p>14 officials that are on our e-mail distribution list. And</p> <p>15 if it's something that's relevant to local election</p> <p>16 officials, that e-mail distribution list, and that's</p> <p>17 just so that they can get it directly from us.</p> <p>18 In addition, to that they're posted on our</p> <p>19 website so that they're available for public</p> <p>20 consumption.</p> <p>21 Q. So let's turn to Page 9 of the advisory.</p> <p>22 A. Okay.</p> <p>23 Q. So under the subheading, Recommended Timelines</p> <p>24 for Notification Process, it states, According to the</p> <p>25 United States Postal Service, first-class delivery can</p>	<p style="text-align: right;">Page 81</p> <p>1 take up to five business days. Because a defective</p> <p>2 carrier envelope needs to be returned to the voter, and</p> <p>3 then mailed back to the Early Voting Clerk, the SOS</p> <p>4 recommends that the SVC or EVBB implement a policy to</p> <p>5 provide notification of a defect by phone or e-mail to</p> <p>6 all voters whose ballots are reviewed by the SVC or EVBB</p> <p>7 on or after the 14th day before Election Day,</p> <p>8 approximately 10 business days. Did I read that</p> <p>9 correctly?</p> <p>10 A. You did.</p> <p>11 Q. So if a county were to follow this recommendation</p> <p>12 that I just read, any defective carrier envelope</p> <p>13 received between 20 days and 14 days before Election Day</p> <p>14 will be mailed back by the SVC. Is that right?</p> <p>15 MRS. HUNKER: Objection, form, calls for</p> <p>16 legal conclusion and assuming facts not in evidence.</p> <p>17 A. It could be. It kind of broadly depends on what</p> <p>18 policy the SVC or EVBB decided to implement with respect</p> <p>19 to to the process in general.</p> <p>20 Q. (By Mrs. Yun) And how does it depend on the</p> <p>21 process?</p> <p>22 A. It could be that they -- that the ballot board or</p> <p>23 the SVC -- EVBB or SVC was also simultaneously calling</p> <p>24 people or, you know, something to that affect. Like,</p> <p>25 they're -- you know, the law defers in some instances to</p>

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<p style="text-align: right;">Page 82</p> <p>1 the Ballot Board and the SVC to determine how and when</p> <p>2 they take certain steps in the corrective action</p> <p>3 process.</p> <p>4 Q. Right. So --</p> <p>5 A. And I guess just to clarify, it's a</p> <p>6 recommendation, but it's not a blanket policy and the</p> <p>7 law was set up to defer some of those decisions locally.</p> <p>8 Q. Okay.</p> <p>9 A. Yeah.</p> <p>10 Q. So it is not binding on the counties. Correct?</p> <p>11 A. We call it a recommendation.</p> <p>12 Q. Yes.</p> <p>13 A. It's a strong recommendation, but that timeframe</p> <p>14 that they establish, our recommendation is you come up</p> <p>15 with a policy that works in your county on this</p> <p>16 particular issue. This is our recommendation, but</p> <p>17 again, the way the law was set up there is to defer to</p> <p>18 the local entity on what the actual decision is.</p> <p>19 Q. Okay. So if a county were to follow this</p> <p>20 particular recommendation, starting 14 days before</p> <p>21 Election Day, voters would be notified by phone or</p> <p>22 e-mail. Is that -- is that correct?</p> <p>23 A. Yes. Uh-huh.</p> <p>24 Q. Do you know how many counties followed this</p> <p>25 particular recommended timeline?</p>	<p style="text-align: right;">Page 83</p> <p>1 A. I do not.</p> <p>2 Q. And your office cannot require counties to have</p> <p>3 the Signature Verification Committee review the carrier</p> <p>4 envelopes for ID errors. Is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. And because they could elect to have the Early</p> <p>7 Voting Ballot Board to review them?</p> <p>8 A. It's -- whether or not you establish a Signature</p> <p>9 Verification Committee, it's not mandatory. I mean,</p> <p>10 there's -- it's -- you know, it's based on -- it's a</p> <p>11 county-by-county thing.</p> <p>12 Q. So if there's no SVC, then the ballot board --</p> <p>13 A. It defaults to the ballot board, correct.</p> <p>14 Q. Is it correct that in some counties the ballot</p> <p>15 board only meets starting four days before Election Day?</p> <p>16 A. If there are under 100,000 in population, that's</p> <p>17 correct. The law restricts their meetings until that</p> <p>18 point or rather doesn't allow them to meet up until four</p> <p>19 days before Election Day.</p> <p>20 Q. Understood. Let's turn to Page 16 of the</p> <p>21 advisory. So under, Correction of Defects by FPCA</p> <p>22 voters, it says, If the FPCA voter provides missing</p> <p>23 missing or incorrect identification information on their</p> <p>24 carrier envelope or signature sheet, or did not include</p> <p>25 the official election signature sheet for an FPCA voter,</p>
<p style="text-align: right;">Page 84</p> <p>1 the voter must be notified of the defect in the same</p> <p>2 manner as a regular ABBM voter. Did I read that</p> <p>3 correctly?</p> <p>4 A. You did.</p> <p>5 Q. So for a county that adopted the timeline, the</p> <p>6 recommended timeline that we just spoke of on Page 9,</p> <p>7 would you agree that that county would be mailing back</p> <p>8 defective envelopes or signature sheets from FPCA voters</p> <p>9 if they arrive between 20 days and 14 days before</p> <p>10 Election Day?</p> <p>11 A. No.</p> <p>12 MRS. HUNKER: Objection, form.</p> <p>13 A. No. I don't agree with that.</p> <p>14 Q. (By Mrs. Yun) Okay. What did I get wrong?</p> <p>15 A. FPCA voters, they use what's called a Federal</p> <p>16 Postcard Application, which is different from the</p> <p>17 application for Ballot by Mail. They're kind of in a</p> <p>18 different category and there are some different rules</p> <p>19 that apply to them.</p> <p>20 So it is entirely conceivable that a ballot board</p> <p>21 or a Signature Verification Committee may have a</p> <p>22 slightly different policy for those voters than they</p> <p>23 would for regular ABBM voters, as we would say.</p> <p>24 Q. Okay. So could you explain to me what this</p> <p>25 sentence means, on Page 16 which says, The voter must be</p>	<p style="text-align: right;">Page 85</p> <p>1 notified of the defect in the same manner as a regular</p> <p>2 ABBM voter?</p> <p>3 A. It means they also have the ability to be</p> <p>4 notified of defects and receive the benefit of a</p> <p>5 corrective action process.</p> <p>6 Q. Okay. So --</p> <p>7 A. It means that it applies to them too is -- the</p> <p>8 ability to correct a defect applies to FPCA voters as</p> <p>9 well.</p> <p>10 Q. I see. So in the same manner does not mean in</p> <p>11 the same way of transmitting that information. Is that</p> <p>12 --</p> <p>13 A. Correct.</p> <p>14 Q. Okay. So is there an election advisory or any</p> <p>15 other document from your office that informs the</p> <p>16 counties that they can institute a different</p> <p>17 notification mechanism for FPCA voters than for regular</p> <p>18 ABBM voters?</p> <p>19 A. Something separate and apart from this? I don't</p> <p>20 believe so. But if I might add on there, and there's</p> <p>21 language somewhere in the advisory that reflects this,</p> <p>22 you know, that voters -- we always advocate that voters</p> <p>23 be treated the same and as uniformly as possible.</p> <p>24 And these provisions of law indicate that voters</p> <p>25 need to be treated as uniformly as possible, voters in</p>

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<p style="text-align: right;">Page 166</p> <p>1 director may have, you know? There was something that</p> <p>2 we discussed earlier where it was my comments on an</p> <p>3 article that was published indicating that there was bad</p> <p>4 information in that article. And I, you know, urged our</p> <p>5 communications director to make sure that -- in anything</p> <p>6 that he's doing that we're making sure that we're</p> <p>7 communicating it correctly.</p> <p>8 Q. What were some of the inaccuracies that you saw</p> <p>9 in the media about SB1?</p> <p>10 A. One of them was that voters had to match what was</p> <p>11 on their written application, not their voter</p> <p>12 registration record. That was a huge problem. And it</p> <p>13 caused a lot of fear and confusion among voters that was</p> <p>14 completely unnecessary. And then other inaccuracies</p> <p>15 were about the hierarchy that voters had to put one</p> <p>16 number over the other and that's just not what the law</p> <p>17 says.</p> <p>18 Q. How are you doing? You need a break?</p> <p>19 A. I'm fine.</p> <p>20 (Exhibit Number 19 was marked.)</p> <p>21 Q. (By Mr. Bieter) I'm going to hand you what I have</p> <p>22 marked as Exhibit 19. I'm sorry about the --</p> <p>23 A. Stapled in the wrong corner? Trying to confuse</p> <p>24 me here.</p> <p>25 Q. So Exhibit 19 is a PowerPoint that is titled FAQs</p>	<p style="text-align: right;">Page 167</p> <p>1 on Applications for Ballot by Mail, ABBMs. Do you</p> <p>2 recognize this?</p> <p>3 A. I do.</p> <p>4 Q. Did you have a role in drafting it?</p> <p>5 A. Probably, yes.</p> <p>6 Q. Do you know who this -- whom this was presented</p> <p>7 to?</p> <p>8 A. So I don't know the date that it was presented,</p> <p>9 but we did a number of webinars targeted towards our</p> <p>10 county election officials to help them with the</p> <p>11 implementation of some of the new requirements related</p> <p>12 to SB1. We were trying to do them very regularly to</p> <p>13 address those "of the moment" questions. So I don't</p> <p>14 know which one this was in the process.</p> <p>15 I don't know if the date on here was the date it</p> <p>16 was printed from our website or the date that it was</p> <p>17 given, so my guess is it was, you know, obviously at</p> <p>18 some point post -- in posteffective date of SB1 to try</p> <p>19 to help our county election officials have a little more</p> <p>20 clarity on the law.</p> <p>21 Q. Were there any elections after SB1 became</p> <p>22 effective in December 2021 -- and -- did any elections</p> <p>23 happen before the March 2022 primary?</p> <p>24 A. Yes. Absolutely. Yeah.</p> <p>25 Q. And so -- so did the changes in SB1 effect those</p>
<p style="text-align: right;">Page 168</p> <p>1 elections?</p> <p>2 A. Probably not, because the language in SB1,</p> <p>3 there's a provision towards the end that says that SB1</p> <p>4 was in effect for elections that were ordered after a</p> <p>5 certain date. And most of the elections that would've</p> <p>6 happened, like in late December, like a runoff election</p> <p>7 from the November election, or what we refer to as like</p> <p>8 Article 11 Section 11, like, elections that are</p> <p>9 constitutionally required for cities that have</p> <p>10 vacancies, those elections were typically ordered prior</p> <p>11 to the implementation or prior to the effective date of</p> <p>12 SB1, so they would've been under old law.</p> <p>13 Q. If we could just turn to Page 5, Slide 5. And</p> <p>14 the question is on the top, If a voter uses an old ABBM</p> <p>15 form, should I reject the ABBM? And the short answer is</p> <p>16 yes.</p> <p>17 A. Uh-huh.</p> <p>18 Q. What -- what is an old ABBM form?</p> <p>19 A. An old ABBM form, what I was probably referring</p> <p>20 to here, was the form that was effective prior to SB1,</p> <p>21 prior to adding the requirement for personal</p> <p>22 identification numbers. This presentation, I'm pretty</p> <p>23 confident, it was given with the upcoming primary in</p> <p>24 mind.</p> <p>25 Q. Do you recall what the factors were that came --</p>	<p style="text-align: right;">Page 169</p> <p>1 that entered into that response?</p> <p>2 A. Because the law required it after that point.</p> <p>3 Q. Do you recall earlier we were discussing pre-SB1</p> <p>4 implementation ABBM forms that changed as to disabled</p> <p>5 individuals?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And in that instance, it was -- your team advised</p> <p>8 that it was permissible for voters who were not using</p> <p>9 the disabled category to use an old form?</p> <p>10 A. That's correct.</p> <p>11 Q. But in this instance, they can't use an old form?</p> <p>12 A. That's correct.</p> <p>13 Q. Do you know why the policy was different?</p> <p>14 A. Because the law changed. I mean, that's all.</p> <p>15 The law changed. Like, there's now a new field on the</p> <p>16 application for Ballot by Mail forms that's required and</p> <p>17 that applied to all voters. So the old forms couldn't</p> <p>18 be used unless that voter proactively, you know, wrote</p> <p>19 in their personal identification number on an old form.</p> <p>20 One other thing to note with ABBM forms though</p> <p>21 too is remember that they're good for certain voters on</p> <p>22 an annual basis. January 1 everybody would've been</p> <p>23 filling out those new forms anyway.</p> <p>24 Q. And I think I know the answer to this, but did</p> <p>25 your team consult with anyone in providing this specific</p>

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<p style="text-align: right;">Page 170</p> <p>1 guidance?</p> <p>2 A. No. The face of the law.</p> <p>3 Q. If you could turn to the next Bates page, Page 6?</p> <p>4 The question is, What if a voter provides only a</p> <p>5 driver's license number on the ABEM, but the voter</p> <p>6 registration record does not contain a driver's license</p> <p>7 number? And the answer is, The ABEM must be rejected.</p> <p>8 Do you see that?</p> <p>9 A. Uh-huh, I do.</p> <p>10 Q. Did your team also develop that guidance?</p> <p>11 A. Yes, based on the requirements in the law.</p> <p>12 Q. Do you have any concern with how the guidance --</p> <p>13 this guidance has operated in practice?</p> <p>14 MRS. HUNKER: Objection, form, vague.</p> <p>15 A. Generally speaking, no. There were some isolated</p> <p>16 incidents where counties weren't following this process.</p> <p>17 And I had concerns about why those counties were not</p> <p>18 following this process even though we told them what the</p> <p>19 law said.</p> <p>20 Q. (By Mr. Bieter) How did you communicate those</p> <p>21 concerns?</p> <p>22 A. Well, there's one example specifically with</p> <p>23 Travis county where Travis County had a very high ABEM</p> <p>24 rejection rate and there was a little bit of a</p> <p>25 hullabaloo in the media about it. And I remember</p>	<p style="text-align: right;">Page 171</p> <p>1 looking at that and looking at what they were reporting</p> <p>2 their rejection rate to be and it was very high. And</p> <p>3 that number didn't look correct to me.</p> <p>4 And I actually reached out to both Dana</p> <p>5 DeBeauvoir and Elections Director Bridgette Escobedo and</p> <p>6 spoke to her. I didn't speak to Dana directly, but I</p> <p>7 did speak to Bridgette about it to try to get some</p> <p>8 information because her rejection number was way too</p> <p>9 high. And in talking to her, I found out that they were</p> <p>10 doing two things.</p> <p>11 One, they were applying a hierarchy that they</p> <p>12 shouldn't have been providing. And two, if -- they were</p> <p>13 kind of misapplying this concept. If somebody put one</p> <p>14 number on their ABEM form -- if they put the SSN on</p> <p>15 their ABEM form, but the voter registration record had</p> <p>16 both the SSN and driver's license number, they were</p> <p>17 rejecting it. And that was improper.</p> <p>18 And what I later found out when I was briefing my</p> <p>19 staff on it the next day is that our team had answered</p> <p>20 that question for them twice earlier in the week. And</p> <p>21 yet they still were rejecting them anyway even though</p> <p>22 they spoke to members of my team about it.</p> <p>23 Q. So do you review the numbers of rejected ballots</p> <p>24 for counties?</p> <p>25 A. Generally speaking, no. But there was a lot of</p>
<p style="text-align: right;">Page 172</p> <p>1 press about that. It was hard to miss it. And I think</p> <p>2 there was, like, a Twitter fight between our</p> <p>3 communications director and somebody from Travis County.</p> <p>4 And so that's part of how -- I was -- the day that it</p> <p>5 happened I was speaking at a conference, but that's how</p> <p>6 it got on my radar.</p> <p>7 I found out that there was some Twitter fight and</p> <p>8 so I started looking at that, and what they were</p> <p>9 purporting to be their numbers was vastly too high. I</p> <p>10 couldn't figure out any reason why those numbers were so</p> <p>11 high. So I reached out to them because I figured that</p> <p>12 there was a problem somewhere.</p> <p>13 Q. Can you say approximately of all the rejected</p> <p>14 ballots after the March 2022 primary what portion of</p> <p>15 those were related to improper interpretation by</p> <p>16 counties?</p> <p>17 A. I don't know the answer to that. Yeah. I'm</p> <p>18 sorry. We don't have -- to my knowledge, we don't that</p> <p>19 kind of granular data.</p> <p>20 Q. But there -- there were more rejections than</p> <p>21 usual in the March 2022 primary?</p> <p>22 MRS. HUNKER: Objection, form.</p> <p>23 A. You'd have to ask the county specifically on</p> <p>24 that. I know that varies on a county-by-county basis.</p> <p>25 But I remember seeing reports of that in the news,</p>	<p style="text-align: right;">Page 173</p> <p>1 that's -- yes. I remember counties reporting that their</p> <p>2 rejection numbers were higher. Some of them were a lot</p> <p>3 higher, a lot higher than other counties. And like I</p> <p>4 said, with Travis County, that's why I reached out to</p> <p>5 them proactively because their numbers did not seem</p> <p>6 accurate at all. There was no way they could have been</p> <p>7 right.</p> <p>8 Q. (By Mr. Bieter) Does your team have</p> <p>9 responsibilities to respond to allegations of voter</p> <p>10 fraud?</p> <p>11 MRS. HUNKER: Objection, form.</p> <p>12 A. What do you mean by voter fraud? Kind of a broad</p> <p>13 term.</p> <p>14 Q. (By Mr. Bieter) Well, I'll use the example I used</p> <p>15 earlier. If somebody's trying to vote under a deceased</p> <p>16 person's name.</p> <p>17 A. So it would depend on how the information is</p> <p>18 presented to us and at what point during the process. I</p> <p>19 will say generally speaking, anything that constitutes</p> <p>20 potential criminal conduct or would be -- have some kind</p> <p>21 of criminal penalty associated with, we're not an</p> <p>22 enforcement agency so I can't really advise on those</p> <p>23 areas of law and my team really can't advise on those</p> <p>24 areas of law because we're not the ones that make</p> <p>25 decisions on prosecutions.</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
§
§
§
§
§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX B

Carol Alvarado

October 06, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LA UNION DEL PUEBLO ENTERO,)	
et. al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.
)	5:21-CV-00844-XR
v.)	
)	
GREGORY W. ABBOTT, et al.)	

ORAL & VIDEO DEPOSITION OF CAROL ALVARADO

October 6, 2022

Oral & video deposition of Carol Alvarado, produced as a witness at the instance of the plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 6th day of October, 2022, before Patrick Stephens, Certified Court Reporter, at 209 West 14th Street, Ground Floor Conference Room, Austin, Texas 78701.

Carol Alvarado

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Pages 154 to 157

<p style="text-align: right;">Page 154</p> <p>1 have either a Social Security number or a driver's license 2 number in their voter-registration file decreased? 3 A No. 4 Q Now, when you were giving me some stats regarding 5 Harris County and some of the other rejection rates, were you 6 talking about the -- for applications to vote by mail or were 7 you -- applications or were you talking about the actual 8 ballots? 9 A The ballots. 10 Q Okay. Now, did you look at the numbers for the 11 subsequent elections that occurred in 2022? 12 A Well, the number I gave you was 20 -- the '22 primary. 13 Q Okay. 14 A That was the 12.4 percent statewide. 15 Q And so that was for the March 1st, 2022, primary; is 16 that correct? 17 A Right. 18 Q And you're -- 19 A And -- and versus less than 1 percent in the previous 20 -- well, the 2020 presidential election, November. 21 Q And you're aware that there have been two other 22 statewide elections since the March primary; correct? 23 A Yes. 24 Q There was also the primary runoff on May 24th; 25 correct?</p>	<p style="text-align: right;">Page 156</p> <p>1 the feeling that voters are becoming more accustomed to the 2 requirement? 3 A No. 4 Q Have you spoken to them about whether there are often 5 higher rejection rates after new requirements get implemented 6 through law? 7 A No. 8 Q Did you talk to them about how they implemented 9 Senate Bill 1? 10 A I don't recall that one. 11 Q And so where did you get the rejection-rate numbers? 12 A Oh, from my staff. 13 Q Okay. And do you expect similar rejection-rate 14 numbers for the 2020 general? 15 A I don't know. 16 Q Sorry. Let me rephrase that. Do you expect similar 17 rejection rates to the 2022 general? 18 A I don't know. 19 Q Sorry. I realized I had given the wrong date. 20 A I knew what you meant. 21 Q And did you talk to any other counties about the 22 implementation of the voter-ID provision in Senate Bill 1? 23 A Didn't -- say that again. 24 Q Did you speak to any other county -- 25 A Oh, no.</p>
<p style="text-align: right;">Page 155</p> <p>1 A Yeah. Those are much smaller turnouts, yes. 2 Q And there was also the May 7th election. 3 A Even smaller. 4 Q Did you look to see what the rejection rates were for 5 mail ballots for those two elections? 6 A No, because I was trying -- attempting to compare 7 apples to apples, so looking at, you know, 2022 primary versus 8 the 2020 presidential, the 2018. I wouldn't see it being 9 comparing apples to apples with the very small -- I don't even 10 know -- know what the turnout was, but it was a very small 11 turnout in the May election -- 12 Q So you -- 13 A -- and runoffs are small turnouts, too. 14 Q So you did not look to see if the rejection rate had 15 decreased -- 16 A No. 17 Q -- during the other elections -- 18 A No. 19 Q -- is that correct? 20 A Right. 21 Q Have you spoken to any of the election officials in 22 Harris County about how they tried to inform voters about the ID 23 requirement? 24 A No. 25 Q Have you spoken to them about whether they've gotten</p>	<p style="text-align: right;">Page 157</p> <p>1 Q And so is it fair to say that your sole understanding 2 of how the voter-ID provision [sic] effect on voters was the 3 rejection-rate numbers that your staff looked up? 4 MR. GOLANDO: Objection, form. 5 BY THE WITNESS (resuming): 6 A State it again, please. 7 Q Sure. Is it fair to say that your understanding of 8 how the ID numbers affected voters -- when I say ID numbers, I 9 mean the ID requirement -- 10 A Uh-huh. 11 Q -- came from the rejection-rate numbers that you 12 received from staff? 13 A Partially. 14 Q What other information do you have regarding the 15 implementation of Senate -- 16 A Well, talking -- talking to folks in the community. 17 People -- I mean, this was a pretty high-profile bill. Talking 18 to people that are involved in campaigns that knew of ballots 19 that had been rejected. 20 Q And did you speak to anybody that had their own ballot 21 rejected? 22 A I don't recall. Yeah, I... 23 Q And so you don't recall if you spoke to any individual 24 who had their ballot rejected as a result of the voter-ID number 25 requirement; is that correct?</p>

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Pages 158 to 161

<p style="text-align: right;">Page 158</p> <p>1 A Right, I don't recall.</p> <p>2 Q Now, the 19 percent, do you know if that includes the</p> <p>3 number of individuals who were later able to cure the defect in</p> <p>4 their ballot?</p> <p>5 A I don't know.</p> <p>6 Q Now, you had, I believe, discussed on the floor --</p> <p>7 A Uh-huh.</p> <p>8 Q -- during your filibuster some of your concerns</p> <p>9 regarding the signature-match requirement; is that right?</p> <p>10 A Yes.</p> <p>11 Q Okay. I believe you said that individuals with</p> <p>12 disabilities, that their signature can change --</p> <p>13 A Yes.</p> <p>14 Q -- is that correct?</p> <p>15 A Yes.</p> <p>16 Q And so one of your concerns is that a voter would have</p> <p>17 their signature rejected because their disability would cause</p> <p>18 their signature not to be the same election to election; is that</p> <p>19 correct?</p> <p>20 A Right.</p> <p>21 Q A voter-ID number does not change; is that correct?</p> <p>22 A Right.</p> <p>23 Q And so do you think some voters with disabilities</p> <p>24 would find it easier to include their voter-ID number as a</p> <p>25 method of identification as opposed to signature match?</p>	<p style="text-align: right;">Page 160</p> <p>1 A Yes.</p> <p>2 Q And you're aware that the standard is that if the</p> <p>3 number does not match something in the record as opposed to the</p> <p>4 specific number that was used either on the application or</p> <p>5 voter-registration form [sic].</p> <p>6 A Yes.</p> <p>7 Q All right. We can put that down. So we talked a</p> <p>8 little bit about voter-ID requirement.</p> <p>9 A Uh-huh.</p> <p>10 Q Were there any other provisions within Senate Bill 1</p> <p>11 that you thought were harmful to voters?</p> <p>12 A Well, I -- I just didn't see the -- the need for the</p> <p>13 bill to begin with. It made it seem like there was -- they were</p> <p>14 trying to prevent -- they were trying to say that there was</p> <p>15 fraud when there wasn't. In fact, the number of charges and</p> <p>16 prosecutions, if we can look at that, from 20 -- 2004 to 2020,</p> <p>17 0.0006 percent of votes cast during that time resulted any -- in</p> <p>18 any type of prosecution; 534 offenses that were made that was --</p> <p>19 that -- that number out of 94 million votes cast, and of those</p> <p>20 534 offenses, 154 were actually charged. So I felt that -- that</p> <p>21 the bill was a solution in search of a problem.</p> <p>22 Q Okay. And so is it that you believe that the 2020</p> <p>23 general election was basically smooth and secure, and that's why</p> <p>24 there was not a need for --</p> <p>25 A All along. I mean, we've -- we've not heard of any</p>
<p style="text-align: right;">Page 159</p> <p>1 A I don't know. I mean, if they are elderly, they may</p> <p>2 not recall what they used on -- one each one. I don't know.</p> <p>3 Q Let's take a quick look at Senate Bill 1.</p> <p>4 A (Complies with request.)</p> <p>5 THE WITNESS: We can put these two back over</p> <p>6 there.</p> <p>7 MR. GOLANDO: (Complies with request.)</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY THE WITNESS (resuming):</p> <p>10 A Okay.</p> <p>11 Q And we're going to look at Section 5.07, and I will</p> <p>12 let you know it is Page 38.</p> <p>13 A (Complies with request.)</p> <p>14 Q And so if you see Subsection F of Section 5.07, which</p> <p>15 amends Section 86.001 of the election code, it reads: If the</p> <p>16 information required under Section 84.002(a-1)(a)[sic] included</p> <p>17 on the application does not identify the same voter identified</p> <p>18 on the applicant's application for voter registration under</p> <p>19 Section 13.002(c)(8), the clerk shall reject the application.</p> <p>20 Did I read that correctly?</p> <p>21 A Yes.</p> <p>22 Q And so are you aware that a voter who applies for --</p> <p>23 let me rephrase that. Is it your understanding that a voter can</p> <p>24 use any of the required numbers so long as one of them matches</p> <p>25 and have their application accepted?</p>	<p style="text-align: right;">Page 161</p> <p>1 prosecutions, anything that would demonstrate that elections</p> <p>2 were -- contained fraud and that we needed this massive bill to</p> <p>3 address it.</p> <p>4 Q So we had talked a little bit earlier about some of</p> <p>5 the litigation in response to Harris County.</p> <p>6 A Uh-huh.</p> <p>7 Q Would you agree with me that there was at least a lot</p> <p>8 of open questions about what the election code allowed in</p> <p>9 regards to certain voting practices, such as drive-through</p> <p>10 voting, multiple in-person delivery [sic] ballot locations and</p> <p>11 24-hour voting?</p> <p>12 A To some extent.</p> <p>13 Q And so I want to introduce our next exhibit. I</p> <p>14 believe this is Exhibit 31.</p> <p>15 THE WITNESS: Can you give me a minute? I need</p> <p>16 to --</p> <p>17 MS. HUNKER: Sure. Can we go off the record real</p> <p>18 quickly?</p> <p>19 THE WITNESS: Yes. Okay. Thank you.</p> <p>20 VIDEOGRAPHER: Off record at 3:10.</p> <p>21 (A recess is taken.)</p> <p>22 VIDEOGRAPHER: On the record at 3:16.</p> <p>23 BY MS. HUNKER (resuming):</p> <p>24 Q Senator Alvarado, if you can please turn to</p> <p>25 Exhibit 31.</p>

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<p style="text-align: right;">Page 166</p> <p>1 Q And would you agree with me that the Texas Attorney 2 General has brought charges against -- for illegal voting or 3 election fraud in other counties as well? 4 A According to this, yes. 5 Q Are you aware that election -- election-fraud 6 prosecutions are also brought by county district attorneys? 7 A Yes. 8 Q Do you know the amount of charges that are brought by 9 these district attorneys each year? 10 A No. 11 Q I also want to turn to Page 30 -- sorry -- Exhibit 32. 12 A (Complies with request.) 13 Q And you'll see that there's a caption, Lupe v. Texas. 14 Do you see that? 15 A Yes. 16 Q And do you see where it says, United States' Responses 17 to Texas' First Set of RFPs-Privilege Log? 18 A Yes. 19 Q And I want to look towards the privilege basis that's 20 brought for some of these documents. 21 A Okay. 22 Q And do you see where -- the third entry down, it says, 23 Complaint alleging voter fraud via text message. 24 A Yes. 25 Q And do you see the next one down says, Voicemail</p>	<p style="text-align: right;">Page 168</p> <p>1 A Yes. 2 Q And he's a Democrat; correct? 3 A Yes. 4 Q And did you work with him when you were in the Texas 5 House? 6 A Yes. And just to be clear, I was not in the House 7 during this time, during 2007. 8 Q And I want to go to the third paragraph, where it 9 starts with, Furthermore. 10 A Okay. 11 Q Actually, let's do the whole paragraph. Let's start 12 with, We know. It says: We know that there's no evidence of 13 it, but if this body wants to create an opportunity for voter 14 fraud, then vote for HB218. In fact, that Section 3 Part A of 2 15 -- HB218 creates a wonderful opportunity for people at a low 16 cost to be able to impersonate someone else by saying that this 17 is a valid employee ID and no poll worker, no election worker, 18 no election judge will be able to discern a ballot from invalid 19 ID. Did I read that correctly? 20 A Yes. 21 Q Furthermore, there's another wonderful loophole in 22 this bill that creates a glaring weakness: It essentially 23 allows vote by mail to continue without voter identification. 24 Vote by mail, as we know, is the greatest source of fraud -- 25 voter fraud in this state. In fact, all of the prosecutions by</p>
<p style="text-align: right;">Page 167</p> <p>1 complaint alleging voter fraud in Texas? 2 A Yes. 3 Q And do you see how there are other entries here that 4 also state that there were complaints received by the United 5 States regarding election fraud in Texas? 6 A Yes. 7 Q We can put these two documents aside. I'm going to 8 introduce Exhibit 33. 9 MS. HUNKER: (Provides exhibit.) 10 MR. GOLANDO: Thank you. 11 BY MS. HUNKER (resuming): 12 Q Do you have the exhibit in front of you? 13 A Yes. 14 Q Do you see it says House Journal? 15 A Yes. 16 Q And do you see this is from Monday, April 23rd, 2007; 17 is that correct? 18 A Yes. 19 Q And so I'm going to turn -- ask you to turn the page 20 to 2224, and I will represent to you that I've only included the 21 portions of this House Journal that were relevant to our 22 deposition for today. And so do you see where it says 23 Representative Anchia? 24 A Yes. 25 Q Do you know who Representative Anchia is?</p>	<p style="text-align: right;">Page 169</p> <p>1 the attorney general -- I shouldn't say all, but a great 2 majority of the prosecutions by the attorney general occur with 3 request to vote by mail. Did I read that correctly? 4 A Yes. 5 Q Would you agree with me that in this statement on the 6 floor, Representative Anchia said that vote by mail is the 7 greatest source of voter fraud in this state? 8 A According to what I'm reading, that -- that's what he 9 said. 10 Q Okay. And would you agree with me that he is talking 11 about fraud in vote-by-mail context -- sorry. Let me rephrase 12 that. Would you agree with me that he is talking about fraud 13 through vote by mail in the context of photo ID? 14 MR. GOLANDO: Objection, form. 15 BY THE WITNESS (resuming): 16 A I don't know. 17 Q Okay. Would you agree with me that he's comparing 18 vote by mail from in-person voting with respect to photo IDs? 19 MR. GOLANDO: Same objection. 20 BY THE WITNESS (resuming): 21 A I don't know. 22 Q Would you agree with me that he says that the bill 23 would create a wonderful loophole because it allows vote by mail 24 to continue without photo identification? 25 A I'm not sure.</p>

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Pages 170 to 173

<p style="text-align: right;">Page 170</p> <p>1 Q Okay. Would you agree that he says there's another 2 wonderful loophole in this bill that creates a glaring weakness: 3 It essentially allows vote by mail to continue without photo 4 identification?</p> <p>5 A (Reviewing.) That's what I'm reading.</p> <p>6 Q And let's go to introduce the next exhibit, which is 7 34.</p> <p>8 MS. HUNKER: (Provides exhibit.)</p> <p>9 MR. GOLANDO: Thank you.</p> <p>10 BY MS. HUNKER (resuming):</p> <p>11 Q And you see that this is a letter from Judith 12 Zaffirini, State Senator, District 21?</p> <p>13 A Yes.</p> <p>14 Q And Senator Zaffirini is a Democrat; correct?</p> <p>15 A Yes.</p> <p>16 Q And this letter was sent on December 3rd, 2018; is 17 that correct?</p> <p>18 A Yes.</p> <p>19 Q And it's directed to Senator Hughes, chair of the 20 select committee on election security.</p> <p>21 A Yes.</p> <p>22 Q Okay. I want to look at page -- Paragraph 1 where it 23 says, This letter, however, let me know when you've arrived.</p> <p>24 A Yes, I have it.</p> <p>25 Q Okay. It reads: This letter however is to record my</p>	<p style="text-align: right;">Page 172</p> <p>1 Q Would you agree with me that she said that: 2 Legislators are focused on voter-ID laws intended to prevent 3 in-person voter fraud, but not on the increasing serious problem 4 of mail-in ballot fraud.</p> <p>5 A That's what I read.</p> <p>6 Q And you'd agree that she said that she heard troubling 7 testimony regarding the state of election security related to 8 mail-in ballot fraud.</p> <p>9 A That's what it reads here.</p> <p>10 Q The voter-ID number requirement introduces a voting -- 11 let me take -- let rephrase that. The requirement that a voter 12 provide either their Social Security number or driver's license 13 or voter ID on their mail-in ballot adds a voter-ID component to 14 mail-in ballots; is that correct?</p> <p>15 A I suppose so.</p> <p>16 Q Would you agree that it addresses the concern raised 17 by Senator Zaffirini that legislators are focused on voter-ID 18 laws intended to prevent in-person voter fraud, but not on the 19 increasing serious problem of mail-in ballot fraud?</p> <p>20 A I -- I don't know. I can't say.</p> <p>21 Q We can put that document aside. So we had discussed 22 earlier about some of your concerns regarding poll watchers; 23 correct?</p> <p>24 A Yes.</p> <p>25 Q And do you have concerns regarding poll watchers with</p>
<p style="text-align: right;">Page 171</p> <p>1 concerns regarding the need to, one, provide concrete 2 recommendations to address mail-in ballot fraud. Did I read 3 that correctly?</p> <p>4 A Yes.</p> <p>5 Q And now let's look at the next paragraph: During the 6 last several sessions, many legislators have focused on voter-ID 7 laws intended to prevent in-person voter fraud, but not on [sic] 8 increasingly serious problem of mail-in ballot fraud. Our 9 committee heard troubling testimony regarding the state of 10 election security related to the latter. Did I read that 11 correctly?</p> <p>12 A Yes.</p> <p>13 Q It continues: The report's recommendation that the 14 legislature needs to find a solution to the vexing issue of 15 mail-in ballot fraud. At nursing homes and assisted-living 16 facilities is a good start, but we must take all possible steps 17 to address voting irregularities caused by fraudulent mail-in 18 ballots. Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q And so would you agree that in this letter she states 21 that the legislature needs to provide concrete recommendations 22 to address mail-in ballot fraud?</p> <p>23 A (Reviewing.)</p> <p>24 Q Based on the first paragraph.</p> <p>25 A Well, if the -- that's what it reads here.</p>	<p style="text-align: right;">Page 173</p> <p>1 respect to Senate Bill 1?</p> <p>2 A Yeah, there are some. I mean, obviously we've talked 3 quite a bit about the -- the training.</p> <p>4 Q Uh-huh.</p> <p>5 A But if I recall, I don't know if there are provisions 6 in there on what exactly a poll watcher can do, if they can 7 speak at any moment or get up and wander around at any moment.</p> <p>8 I -- I don't recall.</p> <p>9 Q Okay.</p> <p>10 A But I know that -- that was a concern as well of mine.</p> <p>11 Q Okay. And so we did talk a little bit about training, 12 and so just out of curiosity, have you at any point looked at 13 the training that was provided by the secretary of state for 14 poll watchers?</p> <p>15 A After the bill?</p> <p>16 Q Yes.</p> <p>17 A No, no.</p> <p>18 Q Have you talked to any of the new poll watchers 19 regarding the training and their experience going through the 20 training?</p> <p>21 A No.</p> <p>22 Q And have you talked to any election administrators or 23 county election officials about how the training has worked with 24 respect to poll watchers at their locations?</p> <p>25 A No, not yet.</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX C



HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTIETH DAY — MONDAY, APRIL 23, 2007

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 590).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — King, S.; Moreno.

The invocation was offered by Steve Doles, director, Pray Lubbock, as follows:

Our Heavenly Father, your servant, Moses, not only brought law and order to his people, but provided the foundation upon which laws are established today. May each member of the house breathe in a fresh sense of divinely ordained duty and their stamina renewed as they consider legislation regarding the affairs of our state. May their noble work bring forth laws which will protect our freedoms, enhance life for individuals, and insure rule and order in our society.

We thank you that you have created the men and women in this room with passion about their opinions on appropriate governing policy. I pray that you will endow these representatives, whether on the debate floor or in the committee room, with self-control and honorable statesmanship equal to their passion allowing true corporate wisdom to prevail in this 80th Legislature.

Absent — Cook, R.; King, S.; Woolley.

STATEMENT OF VOTE

When Record No. 617 was taken, my vote failed to register. I would have voted yes.

Woolley

HB 218 - REMARKS

REPRESENTATIVE ANCHIA: Members, I'm going to be brief, this has been a long day. The debate has gone on for, oh boy, about six hours and this is what we learned. We've learned that the authors of this bill have provided not one shred of evidence of voter impersonation, which is the type of voter fraud this bill gets at. We have learned that upwards of two million Texans may be disenfranchised by this bill. We have learned that the sense of this body is not to prosecute the offenders and not to set up and devote resources to engage a prosecuting voter impersonation.

So, let me tell you what I know it's not about. This is clearly not about voter fraud, it's not about voter impersonation, it's not about expanding the franchise, it's not about protecting those that are least vulnerable in our society, and it's not about making sure that elections are more secure, and I'll tell you why. I've been saving this wonderful nugget for you guys until the end. If you look at the list of documents that you can offer up, it includes employee identification. No matter how much training you do with poll workers, no matter how much training you do of election judges and election officials, it will be impossible for them to discern what is a valid employment identification and what is an invalid employment identification. Mr. Talton probably has an identification for his law firm. It would be impossible for me to tell whether it was valid or invalid or whether Joe Deshotel's face was on it or whether it was correct or not. In fact, you can go down to Kinko's and have a bogus little ID made and say that you're an employee of whatever organization you want to be for about five dollars. In fact, this bill, rather than increasing the integrity of elections, makes sure that there's a huge loophole that you can drive a train through to increase voter fraud that was what was crossing the mind of a particular person.

We know that there's no evidence of it, but if this body wants to create an opportunity for voter fraud then vote for **HB 218**. In fact, that Section 3 part (a) of **HB 218** creates a wonderful opportunity for people at a low cost to be able to impersonate someone else by saying that this is a valid employee ID and no poll worker, no election worker, no election judge will be able to discern a valid from an invalid ID. Furthermore, there's another wonderful loophole in this bill that creates a glaring weakness. It essentially allows vote by mail to continue without photo identification. Vote by mail, that we know, is the greatest source of voter fraud in this state. In fact, all of the prosecutions by the attorney general—I shouldn't say all, but a great majority of the prosecutions by the attorney general occur with respect to vote by mail.

So ladies and gentlemen, you have a pig on your hands. It's an ugly bill. It creates more of an opportunity for voter fraud than current law, and I will tell you that if you vote for this without any commensurate enforcement like what was

Monday, April 23, 2007

HOUSE JOURNAL — 60th Day

2225

offered up in Representative Strama's bill, you are voting for a pig with no lipstick, and it's going to be nasty. So I urge you, members of this body, to please vote against the loopholes that this bill creates and vote against the opportunities of voter fraud that this creates and vote against **HB 218**.

REPRESENTATIVE BURNAM: I particularly want to thank Rafael Anchia for the leadership role he's taken, both on the Elections Committee and today, and I'm only going to add a few words from my hometown daily paper, the *Star-Telegram* today. The opening paragraph, "An insidious scheme to turn back the clock on voting rights in Texas tragically has once again made it's way to the state house floor. The architects of this idea pitched as a noble effort to prevent voter fraud cannot be allowed to succeed with what is surely one of the greatest assaults on the right to vote in this state since the passage of The Federal Voting Rights Act in 1965." Racism is racism, xenophobia is xenophobia. It's too bad that we're going to see it enacted on the house floor again.

REMARKS ORDERED PRINTED

Representative Thompson moved to print all closing remarks on **HB 218**.

The motion prevailed.

REPRESENTATIVE VEASEY: Mr. Speaker, members, thank you very much. I'll be very brief. I want to start off by thanking some of the folks that have helped bring attention to this voter ID, or what I call a voter suppression bill. First of all, I'd like to thank the Baptist General Convention of Texas. They put out a pamphlet, a flier today asking members to please oppose this bill. I think that's significant because the Civil Rights Movement back when we were going through a lot of these issues that we're facing today—and don't be mistaken about it—this is a Civil Rights issue that we are debating today. But back during the '60s the black ministers and everyone else that marched for freedom, that marched for voting rights, rarely did any of the white pastors from the South join in, and the fact that the Baptist General Convention joined in shows that we are making some progress in this country on racial harmony.

Unfortunately, this bill sets us back. We have heard absolutely no evidence of any voter impersonation today, absolutely none. I think that Representative Strama and Representative Anchia pointed that out very eloquently. All of the amendments and everything that Ms. Brown has offered you today is asking you to vote for this bill based on generalizations, and based on stereotypes, and based on things that are untrue. There has been absolutely not one shred of evidence, and we're voting for this bill today. It makes absolutely no sense, and especially in light of what's going on with the attorney general in the State of Texas. They were trying to force U.S. attorneys to say that there was voting fraud going on in their respective districts in their respective states so they could produce convictions that would prove voter impersonation. The panel, the U.S. panel who looked into this, found none. They had to help doctor some of the findings to make their findings more compelling. And I think that it's time that—instead of 15 or 20 years from now—because, you know, when we look down the road this is going to be embarrassing that we even voted for this. But right now people are

IN THE UNITED STATES DISTRICT COURT
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SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX D

Transcript of the Testimony of
Rafael Anchia

Date:

August 22, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE
 WESTERN DISTRICT OF TEXAS

3 LA UNION DEL PUEBLO)
 4 ENTERO, et al,)
)
 5 Plaintiff,)
)
 6 v.) Civil Action No.
) 5:21-cv-00844-XR
 7 GREGORY W. ABBOTT, et al,)
)
 8 Defendant.)

9
 10 -----
 11 ORAL AND VIDEOTAPED DEPOSITION OF
 12 REPRESENTATIVE RAFAEL ANCHIA
 13 AUGUST 22, 2022
 14 -----

15 ORAL DEPOSITION OF REPRESENTATIVE RAFAEL ANCHIA,
 16 produced as a witness at the instance of the state
 17 defendants and duly sworn, was taken in the above-styled
 18 and numbered cause on August 22, 2022, from 9:20 a.m. to
 19 12:02 p.m. before Brent Sturgess, CSR in and for the
 20 State of Texas, reported by machine shorthand at the
 21 offices of Civitas Capital Group, 1722 Routh Street,
 22 Suite 800, Dallas, Texas, 75201, pursuant to Notice, the
 23 Federal Rules of Civil Procedure and the provisions
 24 stated on the record or attached hereto.

Rafael Anchia

August 22, 2022
Pages 62 to 65

<p style="text-align: right;">Page 62</p> <p>1 Q. Have you ever voted by mail?</p> <p>2 A. I don't believe so.</p> <p>3 Q. You haven't voted by mail since Senate Bill</p> <p>4 1 took effect; correct?</p> <p>5 A. No.</p> <p>6 Q. And you haven't attempted to vote by mail</p> <p>7 since Senate Bill 1 took effect; correct?</p> <p>8 A. No.</p> <p>9 Q. Have you witnessed anyone attempting to vote</p> <p>10 by mail since Senate Bill 1 took effect?</p> <p>11 A. No.</p> <p>12 Q. Can you identify any voters who were</p> <p>13 prevented from voting as a result of Senate Bill 1's</p> <p>14 provisions related to voting by mail?</p> <p>15 A. No.</p> <p>16 Q. Do you have any personal knowledge of any</p> <p>17 problems related to voting by mail that you would</p> <p>18 attribute to Senate Bill 1?</p> <p>19 A. No.</p> <p>20 Q. You're represented by counsel for purposes</p> <p>21 of this litigation; right?</p> <p>22 A. Say -- say it one more time.</p> <p>23 Q. You're represented by counsel for purposes</p> <p>24 of this litigation --</p> <p>25 MR. QUESADA: Well, for this --</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. QUESADA: It should, but it comes</p> <p>2 third.</p> <p>3 THE WITNESS: It should, it should.</p> <p>4 Q. (By Mr. Thompson) If you --</p> <p>5 A. Sommerman, Quesada, McCaffity...</p> <p>6 Q. Sure.</p> <p>7 A. In some order.</p> <p>8 Q. Do you want to just confirm that --</p> <p>9 MR. QUESADA: Well, I think ours has</p> <p>10 four. My card's there. Sommerman, McCaffity --</p> <p>11 THE WITNESS: Sommerman, McCaffity,</p> <p>12 Quesada & Geisler.</p> <p>13 Q. (By Mr. Thompson) Other than lawyers at</p> <p>14 that law firm, are you represented by any other</p> <p>15 attorneys related to this matter?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. Have you communicated with anyone other than</p> <p>18 attorneys at that law firm about testifying in a trial</p> <p>19 in this matter?</p> <p>20 A. No.</p> <p>21 Q. Are you aware that some of the plaintiffs in</p> <p>22 this case identified you as a potential witness at</p> <p>23 that trial?</p> <p>24 A. Yes.</p> <p>25 Q. How did you become aware of that?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. (By Mr. Thompson) -- correct?</p> <p>2 MR. QUESADA: For this deposition.</p> <p>3 MR. THOMPSON: Okay.</p> <p>4 A. Yes.</p> <p>5 MR. THOMPSON: And I'm not trying to</p> <p>6 broaden the scope of your representation or anything.</p> <p>7 MR. QUESADA: Fine.</p> <p>8 Q. (By Mr. Thompson) So I see that Tex here is</p> <p>9 a lawyer for you; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. Do you have any other lawyers related to</p> <p>12 this matter other than Tex?</p> <p>13 MR. QUESADA: I'm going to object to</p> <p>14 the form of the question.</p> <p>15 A. I would answer Sean McCaffity and --</p> <p>16 MR. THOMPSON: I just want to know who</p> <p>17 represents him.</p> <p>18 MR. QUESADA: In -- for purposes of</p> <p>19 this deposition my firm -- the lawyers in my firm do.</p> <p>20 THE WITNESS: Yeah.</p> <p>21 MR. QUESADA: Including Mr. McCaffity.</p> <p>22 Q. (By Mr. Thompson) Do you remember the name</p> <p>23 of that law firm?</p> <p>24 A. Sommerman, Quesada -- or, no -- So -- I</p> <p>25 think Quesada comes first.</p>	<p style="text-align: right;">Page 65</p> <p>1 A. My counsel.</p> <p>2 MR. QUESADA: Yeah. Don't answer if</p> <p>3 it -- if it involves attorney-client.</p> <p>4 THE WITNESS: Okay.</p> <p>5 MR. QUESADA: Just tell him it involves</p> <p>6 attorney-client.</p> <p>7 THE WITNESS: It involves</p> <p>8 attorney-client.</p> <p>9 Q. (By Mr. Thompson) Other than conversations</p> <p>10 with counsel, you don't have any knowledge about being</p> <p>11 listed as a witness; is that fair?</p> <p>12 A. That's fair.</p> <p>13 Q. Do you have any plans to testify at the</p> <p>14 trial in this matter?</p> <p>15 A. Not at the present time.</p> <p>16 (Exhibit Number 12 marked.)</p> <p>17 Q. (By Mr. Thompson) I'll hand you Exhibit 12.</p> <p>18 A. Thank you.</p> <p>19 MR. QUESADA: Thank you.</p> <p>20 Q. (By Mr. Thompson) Representative Anchia,</p> <p>21 does the front of Exhibit 12 say "House Journal,</p> <p>22 Eighty-Second Legislature, Regular Session"?</p> <p>23 A. It does.</p> <p>24 Q. Is it dated Monday, March 21, 2011?</p> <p>25 A. It is.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Does this appear to be a copy of the House 2 Journal published by the Texas Legislature? 3 A. It does. 4 Q. Can you flip to Page 914? 5 The page numbers are on the top-left 6 and right-hand corners, sort of booklet style. 7 A. I'm on Page 914. 8 Q. According to this excerpt from the House 9 Journal, about the middle of the page you are quoted 10 as saying "Yet this bill doesn't deal with the type of 11 voter fraud that we've seen most prevalently in the 12 state of Texas, which is mail-in ballots." 13 Do you see that? 14 A. Yes. 15 Q. Is that an accurate reporting of what you 16 said? 17 A. Yes. Those are the words I said in the 18 journal, as reflected in the journal. 19 Q. This was in the context of a debate about a 20 voter ID bill; correct? 21 A. Yes. A strict photo ID bill, correct. 22 Q. And you were opposing that bill; correct? 23 A. That's correct. 24 Q. That bill dealt with a voter showing photo 25 identification in order to vote in person; correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. And you were referring to mail-in ballot 2 fraud; correct? 3 A. Yes. 4 Q. Can you flip to Page 915? 5 The second set of remarks from you on 6 this page says, "I actually chair the select committee 7 on that, and I've had in the past mail-in ballot 8 bills. 9 Do you see that? 10 A. Yes. 11 Q. Do you recall what bills you were referring 12 to in those remarks? 13 A. I don't. 14 Q. Based on what you remember today, have you 15 offered bills in the past related to mail-in ballots? 16 A. I think I was a joint author on mail-in 17 ballot bills in the past. 18 Q. Would this have been a bill authored by 19 Representative Oliverson... 20 A. I don't recall. 21 Q. ...where he would have -- 22 A. I don't recall. 23 Q. To the best of your recollection, what was 24 the purpose of the bills related to mail-in ballots 25 that you were offering?</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Correct. 2 Q. And I believe some supporters of the bill 3 said that the bill would be helpful for combating or 4 preventing in-person voter-impersonation fraud -- 5 A. Right. 6 Q. -- is that right? 7 A. Correct. 8 Q. And you explained to your colleagues that 9 that type of voter-impersonation fraud was less common 10 than fraud related to voting by mail; correct? 11 A. Virtually nonexistent. 12 MR. THOMPSON: Do you want to -- 13 MR. QUESADA: I'm sorry, go ahead. It 14 says whatever it says. I'm going to object to the 15 form of the question. I don't think that's -- I don't 16 think that's what Chairman Anchia said on the record. 17 Q. (By Mr. Thompson) Now, at the bottom of 18 this Page 914 -- 19 A. Yes. 20 Q. -- you're quoted saying, "If you have opened 21 the door to the integrity of elections, then I think 22 it's fair game to discuss that type of fraud, which we 23 actually do see in the state of Texas." 24 Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 A. I don't recall. 2 Q. Let me go to the next comment from you on 3 that page. It's the third one, "Here's the quandary 4 for this body. If you say passing this bill is going 5 to restore integrity of elections, you do nothing in 6 this bill to deal with mail-in ballots and 70 percent 7 of all the prosecutions by the Attorney General have 8 been mail-in ballots, then you're really not restoring 9 integrity of elections because people, like they have 10 for the last six years, will be reading about mail-in 11 ballot fraud, mail-in ballot fraud, mail-in ballot 12 fraud." 13 Do you see that? 14 A. I do. 15 Q. Do you generally conduct research to support 16 the factual statements that you make on the floor of 17 the House of Representatives? 18 A. Yes. 19 Q. Do you think you've researched the 20 prosecutions brought by the Attorney General related 21 to voter fraud? 22 A. Yes. 23 Q. And your research showed that 70 percent of 24 the Attorney General's prosecutions related to voter 25 fraud were about mail-in ballots?</p>

<p style="text-align: right;">Page 70</p> <p>1 A. At the time.</p> <p>2 Q. Do you know whether those numbers are</p> <p>3 similar or different now?</p> <p>4 A. I don't, I don't. I recall that they were</p> <p>5 low -- very low at the time. So 70 percent of a low</p> <p>6 number. I don't recall that exact number. But my</p> <p>7 whole point in -- just for further context because,</p> <p>8 you know, folks have tried to take this language out</p> <p>9 of context on the House floor. So I figured I'd offer</p> <p>10 an explanation, some context here.</p> <p>11 Number one is an acknowledgment that</p> <p>12 voter fraud in the state of Texas is a very s -- a</p> <p>13 very small number. It's like a rou -- I think I</p> <p>14 described it at one point as a rounding error of a</p> <p>15 rounding error. You're more -- you're more likely to</p> <p>16 get struck by lightning. To the extent it exists, it</p> <p>17 is not in -- it was not found in voter impersonation,</p> <p>18 which undercut the -- the pretext that was being given</p> <p>19 by the legislature at that time about the need to have</p> <p>20 strict -- a strict photo ID standard in the state, and</p> <p>21 ultimately we won this in court.</p> <p>22 But it undercut their argument to</p> <p>23 suggest that in-person voter impersonation was about</p> <p>24 the integrity of election when at the time they were</p> <p>25 not doing anything about mail-in ballot fraud, which</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Yes.</p> <p>2 Q. If you could flip to Page 2224, please.</p> <p>3 A. I am with you.</p> <p>4 Q. That Page 2224 contains remarks from you</p> <p>5 about House Bill 218; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Take a look down at the third paragraph of</p> <p>8 your remarks, and then halfway through that paragraph</p> <p>9 there's a sentence that begins "Furthermore..."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. I'm going to read that and ask you to</p> <p>13 confirm that I read it correctly.</p> <p>14 A. Yes.</p> <p>15 Q. "Furthermore, there's another wonderful</p> <p>16 loophole in this bill that creates a glaring weakness</p> <p>17 that essentially allows vote by mail to continue</p> <p>18 without photo identification. Vote by mail, that we</p> <p>19 know, is the greatest source of voter fraud in this</p> <p>20 state. In fact, all of the prosecutions by the</p> <p>21 Attorney General -- I shouldn't say all, but a great</p> <p>22 majority of the prosecutions by the Attorney General</p> <p>23 occur with respect to vote by mail."</p> <p>24 Do you see that?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 71</p> <p>1 was the one place where we did see some, not much, but</p> <p>2 some.</p> <p>3 And of the cases that the Attorney</p> <p>4 General had prosecuted, they had all been in that</p> <p>5 area. So it seemed to suggest that their pretext for</p> <p>6 bringing that photo identification bill was -- was not</p> <p>7 sincere, and that's what I was pointing out here.</p> <p>8 Q. I certainly don't mind you offering context.</p> <p>9 MR. THOMPSON: I will, nonetheless,</p> <p>10 have to object as nonresponsive.</p> <p>11 A. Okay.</p> <p>12 Q. (By Mr. Thompson) It's nothing personal, of</p> <p>13 course.</p> <p>14 A. No, of course. None -- no personal...</p> <p>15 Q. Okay.</p> <p>16 A. Nothing -- nothing personal taken, Will.</p> <p>17 (Exhibit Number 13 marked.)</p> <p>18 Q. (By Mr. Thompson) Good. I'm going to hand</p> <p>19 you what's been marked as Exhibit 13.</p> <p>20 Exhibit 13 is an excerpt from the House</p> <p>21 Journal of the Eightieth Legislature, Regular Session;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it's dated Monday, April 23, 2007;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. And this is an accurate transcription of</p> <p>2 what you said in those remarks; correct?</p> <p>3 A. Correct.</p> <p>4 (Exhibit Number 14 marked.)</p> <p>5 Q. (By Mr. Thompson) I'd like to show you a</p> <p>6 new exhibit. This is marked Exhibit 14.</p> <p>7 A. Thank you.</p> <p>8 MR. QUESADA: Thank you, guy.</p> <p>9 Q. (By Mr. Thompson) Representative Anchia, is</p> <p>10 Exhibit 14 -- I'm sorry. Before we get going, I just</p> <p>11 want to make sure. There's a printer error on my</p> <p>12 copy, and it's a little bit hard to read.</p> <p>13 Does your copy look clear?</p> <p>14 A. It does.</p> <p>15 Q. Okay, perfect. Then I'll just use a</p> <p>16 different copy.</p> <p>17 Exhibit 14 is an excerpt from the House</p> <p>18 Journal of the Eighty-Seventh Legislature, Second</p> <p>19 Called Session; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it's dated Tuesday, August 31, 2021;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. If you flip to Pa -- the next page is</p> <p>25 Page 316 in the top left-hand corner.</p>

<p style="text-align: right;">Page 82</p> <p>1 an honest man?</p> <p>2 A. I don't know.</p> <p>3 MR. QUESADA: He said he was a Cubs</p> <p>4 fan.</p> <p>5 (Exhibit Number 15 marked.)</p> <p>6 Q. (By Mr. Thompson) I'm going to hand to you</p> <p>7 what's been marked as Exhibit 15.</p> <p>8 A. Yeah.</p> <p>9 MR. QUESADA: Thank you.</p> <p>10 Q. (By Mr. Thompson) Is Exhibit 15 an article</p> <p>11 from the Dallas Morning News entitled "Texas needs</p> <p>12 tougher laws to reel in mail-in vote fraud"?</p> <p>13 A. Yes.</p> <p>14 Q. Is it written by Gromer Jeffers, Jr.?</p> <p>15 A. Yes.</p> <p>16 Q. Is it dated April 26th, 2017?</p> <p>17 A. Yes.</p> <p>18 Q. Do you see in the first paragraph of</p> <p>19 Mr. Jeffers it says "Let's face it. Mail-in ballot</p> <p>20 voting, a necessary and noble process, is vulnerable</p> <p>21 to fraud"?</p> <p>22 A. Yes.</p> <p>23 Q. Do you see in the second paragraph he says</p> <p>24 "Residents --," referring to residents of West</p> <p>25 Dallas, "-- there have complained about receiving</p>	<p style="text-align: right;">Page 84</p> <p>1 Dallas County Elections Department; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Were you involved at all in the Dallas</p> <p>4 County Elections Department's response to that letter?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Do you recall communicating with Mayor</p> <p>7 Rawlings, Representative Johnson or anyone from the</p> <p>8 Dallas County government about this issue at the time?</p> <p>9 A. Not that I recall.</p> <p>10 Q. If you'll look in Paragraph 3, Mr. Jeffers</p> <p>11 says, "Voter fraud, even with mail-in ballots, does</p> <p>12 not occur on a large scale. But in low-turnout</p> <p>13 elections, stealing just a few votes can be the</p> <p>14 difference between winning and losing."</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Are you aware of the fact that some elected</p> <p>18 officials in Texas are elected by just a few votes in</p> <p>19 a very close race?</p> <p>20 A. Yes.</p> <p>21 Q. You've had colleagues in the House of</p> <p>22 Representatives who won by just a handful of votes;</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. And so even a very small amount of mail-in</p>
<p style="text-align: right;">Page 83</p> <p>1 absentee ballots they didn't request, raising the</p> <p>2 possibility that someone is casting votes for them."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any knowledge one way or the</p> <p>6 other about whether residents were receiving absentee</p> <p>7 ballots they didn't request?</p> <p>8 A. I'm unaware.</p> <p>9 Q. Do you know one way or the other whether</p> <p>10 someone was casting votes for them?</p> <p>11 A. I'm unaware.</p> <p>12 Q. If you could flip to Page 2, please. Up at</p> <p>13 the top says -- it has a quote from Mayor Mike</p> <p>14 Rawlings.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Excuse me. The quote is also jointly</p> <p>18 authored by Representative Eric Johnson; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And they said, "We ask that you devote</p> <p>21 additional resources to verify the integrity of each</p> <p>22 mail-in ballot in Texas."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And they wrote that in a letter to the</p>	<p style="text-align: right;">Page 85</p> <p>1 ballot fraud in those elections could alter the</p> <p>2 outcome; correct?</p> <p>3 A. Certainly, or a small amount of voters being</p> <p>4 turned away at the polls.</p> <p>5 Q. Who is Representative Steve Wolens?</p> <p>6 A. Steve Wolens is a lawyer, a former state</p> <p>7 representative and my predecessor in office. I</p> <p>8 call -- I would consider him a friend.</p> <p>9 Q. He was a knowledgeable public servant?</p> <p>10 A. Quite.</p> <p>11 Q. He's quoted in the fourth paragraph on Page</p> <p>12 2 as saying "'You have to have a conversation in order</p> <p>13 to prevent coercion and fraud,' said former Rep --</p> <p>14 former State Rep. Steve Wolens, who in 2003 sponsored</p> <p>15 legislation to overhaul the state's mail-in ballot</p> <p>16 system, 'Then you tailor-make a new law that deals</p> <p>17 with abuse and opens up voting.'"</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. If you look at the seventh paragraph on Page</p> <p>21 2, it uses a Spanish term "politiqueros".</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Are you familiar with that term?</p> <p>25 A. Vaguely.</p>

Rafael Anchia

August 22, 2022
Pages 86 to 89

<p style="text-align: right;">Page 86</p> <p>1 Q. What is your understanding of the term</p> <p>2 "politiqueros"?</p> <p>3 A. People who are involved in political</p> <p>4 campaigns.</p> <p>5 Q. Here Mr. Jeffers says "The law also devised</p> <p>6 ways to track mail-in vote operatives, called</p> <p>7 "politiqueros," in Hispanic neighborhoods where</p> <p>8 absentee campaigns are aggressive."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. Are you familiar with allegations that</p> <p>12 people identified as "politiqueros" have</p> <p>13 inappropriately stolen people's votes?</p> <p>14 A. No.</p> <p>15 Q. You don't know one way or the other?</p> <p>16 A. No. I'm unaware of any allegations.</p> <p>17 Q. Do you know whether any of your colleagues</p> <p>18 in the Texas Legislature read this piece by</p> <p>19 Mr. Jeffers in the Dallas Morning News?</p> <p>20 A. I don't.</p> <p>21 Q. Do you recall Representative Lozano</p> <p>22 referring to it on the floor when the legislature was</p> <p>23 debating SB 1?</p> <p>24 A. To this specific piece? Is that the</p> <p>25 question?</p>	<p style="text-align: right;">Page 88</p> <p>1 is that this highlighting came from the party that</p> <p>2 produced the document and that the highlighting</p> <p>3 probably was not in the original publication.</p> <p>4 Are you able to read the document okay</p> <p>5 despite the highlighting?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Do you read the Dallas Observer?</p> <p>8 A. On occasion.</p> <p>9 Q. Do you know whether any of your colleagues</p> <p>10 in the legislature read the Dallas Observer?</p> <p>11 A. I don't.</p> <p>12 Q. If you could turn to the second page of this</p> <p>13 exhibit, which is Bates stamped MS007398, in the</p> <p>14 second full paragraph it says "Earlier this month</p> <p>15 several senior citizens in West Dallas and Oak Cliff</p> <p>16 complained to WFAA-TV that they'd received mail-in</p> <p>17 ballots without having asked for one."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. You represent part of West Dallas; correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you represent Oak Cliff?</p> <p>23 A. I do.</p> <p>24 Q. Did your office receive any complaints on</p> <p>25 this topic?</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Yeah.</p> <p>2 A. No.</p> <p>3 Q. Do you recall your colleagues more generally</p> <p>4 talking about newspaper articles on the topic of</p> <p>5 mail-in ballot fraud?</p> <p>6 A. I don't.</p> <p>7 (Exhibit Number 16 marked.)</p> <p>8 Q. (By Mr. Thompson) I'm going to hand you</p> <p>9 what's been marked as Exhibit 16.</p> <p>10 A. Thank you.</p> <p>11 MR. QUESADA: Thank you, sir.</p> <p>12 Q. (By Mr. Thompson) Does Exhibit 16 appear to</p> <p>13 be an article from the Dallas Observer entitled "City,</p> <p>14 County Investigate Possible Voter Fraud In Upcoming</p> <p>15 Council Election"?</p> <p>16 A. Yes.</p> <p>17 Q. Is it authored by Stephen Young?</p> <p>18 A. Yes.</p> <p>19 Q. Is it dated April 24, 2017?</p> <p>20 A. Yes.</p> <p>21 Q. And in the bottom right-hand corner on Page</p> <p>22 1, do you see a Bates stamp MS007397?</p> <p>23 A. Yes.</p> <p>24 Q. And I'll just represent to you that there's</p> <p>25 some highlighting in this document. My understanding</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Not that I'm aware.</p> <p>2 Q. Do you have any reason to doubt that senior</p> <p>3 citizens from West Dallas and Oak Cliff complained to</p> <p>4 the local TV station that they had received mail-in</p> <p>5 ballots without having asked for one?</p> <p>6 A. No.</p> <p>7 Q. Would you agree that receiving a mail-in</p> <p>8 ballot that you did not request would reasonably cause</p> <p>9 one to wonder whether some sort of irregularity was</p> <p>10 occurring?</p> <p>11 A. Error or irregularity. Certainly error.</p> <p>12 Q. In Texas you're not supposed to receive a</p> <p>13 mail-in ballot without having asked for one; right?</p> <p>14 A. That's right.</p> <p>15 Q. So when senior citizens receive a mail-in</p> <p>16 ballot without having asked for one, they know</p> <p>17 something's gone wrong; correct?</p> <p>18 A. Yes.</p> <p>19 MR. THOMPSON: Do you need to take a</p> <p>20 break or anything?</p> <p>21 MR. QUESADA: Nope.</p> <p>22 Q. (By Mr. Thompson) If you look toward the</p> <p>23 bottom of this page, the second-to-the-last paragraph,</p> <p>24 second sentence, it says "As the Dallas Observer has</p> <p>25 documented for well over a decade, Dallas' council</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
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§
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§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX E

Roberto Benavides

March 30, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO
ENTERO, et al.

VS.

GREGORY W. ABBOTT, et al.

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* Civil Action No.
* 5:51-cv-00844-XR
*
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ORAL AND VIDEOTAPED DEPOSITION OF
ROBERTO BENAVIDES
MARCH 30, 2023
(Reported Remotely)

ORAL AND VIDEOTAPED DEPOSITION of ROBERTO BENAVIDES, produced as a witness at the instance of the Defendants, and duly sworn, was taken remotely in the above-styled and numbered cause on the 30th day of March, 2023, between the hours of 9:03 a.m. and 11:06 a.m., before TRICIA FOX WILLIAMS, CSR, in and for the State of Texas, reported by machine shorthand, with the witness located in Austin, Texas, in accordance with the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Roberto Benavides

March 30, 2023
Pages 26 to 29

<p style="text-align: right;">Page 26</p> <p>1 it again.</p> <p>2 Q. Okay. And is that true today, that you don't</p> <p>3 know?</p> <p>4 A. I do know now.</p> <p>5 Q. Okay. Well, we'll get to that a little bit</p> <p>6 later.</p> <p>7 A. Yes.</p> <p>8 Q. So once you received a second mail in ballot,</p> <p>9 what did you do?</p> <p>10 A. Filled it out exactly the same, the same voter</p> <p>11 ID number, license driver's number, the same one that I</p> <p>12 had because it's the one that's on my license, and the</p> <p>13 last four numbers of my social security card.</p> <p>14 Q. Okay. And did you check to make sure that you</p> <p>15 had both your social security number and your driver's</p> <p>16 license number written down exactly correctly?</p> <p>17 A. I checked extra carefully this time.</p> <p>18 Q. And once you completed your second mail in</p> <p>19 ballot and the envelope, what did you do?</p> <p>20 A. Mailed it back as soon as I could.</p> <p>21 Q. Okay. And when did you next hear anything</p> <p>22 about your ballot after mailing in the second one?</p> <p>23 A. That was it, I thought it was all done.</p> <p>24 Q. Okay. And so did there come a time when you</p> <p>25 concluded or learned that your ballot had not been</p>	<p style="text-align: right;">Page 28</p> <p>1 officials at any time relating to the numbers that you'd</p> <p>2 provided for your social security number?</p> <p>3 A. No, not the social security. She said</p> <p>4 everything -- the social security number was okay, the</p> <p>5 voter ID number was okay, my address is okay, it's just</p> <p>6 a problem with the driver's license number, that was the</p> <p>7 only problem.</p> <p>8 Q. Okay. Do you know the name of the person that</p> <p>9 you spoke to on that occasion?</p> <p>10 A. No, I don't.</p> <p>11 Q. How did you and that person get in touch with</p> <p>12 each other?</p> <p>13 A. I was told to call voter -- the Travis County</p> <p>14 voter office, or whatever they call it.</p> <p>15 Q. Who told you to do that?</p> <p>16 MS. WARMS: Objection, privileged.</p> <p>17 Q. (By Mr. Bryant) Did one of your attorneys tell</p> <p>18 you to do that?</p> <p>19 A. Yes. Excuse me. Because I wanted to find out</p> <p>20 why it was rejected.</p> <p>21 MR. DOLLING: Mr. Benavides, we're going</p> <p>22 to instruct you not to disclose the content of any of</p> <p>23 the conversations that we have had with you.</p> <p>24 THE WITNESS: All right.</p> <p>25 THE REPORTER: Who's speaking?</p>
<p style="text-align: right;">Page 27</p> <p>1 counted or cast?</p> <p>2 A. Yes, when Dana called me at home and she said</p> <p>3 that there had been a problem with the ballot.</p> <p>4 Q. Approximately when was that?</p> <p>5 A. Two months ago. Maybe two months ago, three, I</p> <p>6 don't know.</p> <p>7 Q. And what other conversation did you have with</p> <p>8 Dana at that time?</p> <p>9 A. I just told her I was not aware that there had</p> <p>10 been problems. I knew that I had voted twice, but I</p> <p>11 didn't know that, you know, there was other problems.</p> <p>12 Q. Okay. All right. You mentioned that you</p> <p>13 learned something about whether the initial rejection</p> <p>14 was because of an error in your writing down one of your</p> <p>15 numbers, or an error in the state database that</p> <p>16 contained those numbers; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. When did you learn of that problem?</p> <p>19 A. About three or four days ago.</p> <p>20 Q. Okay. And what did you learn at that time?</p> <p>21 A. I called the voter's office, and the lady said</p> <p>22 that their records show that my driver's license number</p> <p>23 ends in a five, and my actual driver's license number</p> <p>24 ends in a four.</p> <p>25 Q. Did you have any conversation with the election</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. DOLLING: This is Zach Dolling for the</p> <p>2 OCA plaintiffs and for the witness.</p> <p>3 Q. (By Mr. Bryant) Have you ever heard of</p> <p>4 something called ballot tracker?</p> <p>5 A. No.</p> <p>6 Q. Do you -- so is it fair to say that you have no</p> <p>7 information about ballot tracker even as we sit here</p> <p>8 today?</p> <p>9 A. No, I don't.</p> <p>10 Q. Do you have any information about any method by</p> <p>11 which you could have checked on the status of your</p> <p>12 ballot in the November 2022 general election?</p> <p>13 A. No.</p> <p>14 Q. Have you ever gone online to a website called</p> <p>15 votetexas.org or Vote Texas?</p> <p>16 A. I might have, but -- you know. Yes, I did, I</p> <p>17 guess. Yeah.</p> <p>18 Q. You did. Approximately when did you do that?</p> <p>19 A. Probably, I don't know, before the election</p> <p>20 maybe.</p> <p>21 Q. When you say before the election, are you</p> <p>22 referring to before the November 2022 election?</p> <p>23 A. Right.</p> <p>24 Q. Do you have any recollection as to how many</p> <p>25 times you went online to that website, Vote Texas?</p>

Roberto Benavides

March 30, 2023
Pages 42 to 45

<p style="text-align: right;">Page 42</p> <p>1 whether any have occurred. I'm not getting into the 2 content of them. So you can answer that question. 3 A. Yes. 4 Q. And how many occasions? 5 A. Once. 6 Q. And was that in preparation for this 7 deposition, or on a different occasion? 8 A. Preparation. 9 Q. So this is the conversation that you mentioned 10 earlier that has occurred in the last two days? 11 A. Yes. 12 Q. Was that the first time that you met Dana, or 13 was she on the phone or otherwise not present? 14 A. I had talked to her on the phone before, Dana. 15 Q. And you met her in person for the first time? 16 A. Yes. 17 Q. When? 18 A. The same day, two or three days ago. 19 Q. Okay. And was Dana present throughout that 20 deposition preparation meeting? 21 A. Yes. 22 Q. Did you ever consider voting in person in the 23 November 2022 general election, either early voting or 24 on election day itself? 25 A. No, I did not.</p>	<p style="text-align: right;">Page 44</p> <p>1 answer. 2 A. I didn't think about it because I had voted by 3 mail the last three times, so I figured I'll just do it. 4 Q. (By Mr. Bryant) Okay. My question was -- I 5 understand your thought process, why you didn't think it 6 was necessary, but my question is if you had known that 7 there was an issue with your mail in ballot, is there 8 any reason why you couldn't have cast a ballot in person 9 on election day or in the early voting period after your 10 wife passed? 11 MS. WARMS: Objection, form. You can 12 answer. 13 A. I didn't think about it, I guess because I was 14 busy taking care of my wife and I didn't want to leave 15 her. So that was the main thought in my head. So 16 you're saying when I -- I should have just went and 17 voted in person? 18 Q. (By Mr. Bryant) My question is whether -- had 19 you known that you -- that your mail in ballot had not 20 been -- 21 A. I didn't know. 22 Q. -- counted -- I understand that, but if you had 23 known, is there any reason why you couldn't have voted 24 in person on November 8th, 2022, election day? 25 A. Because I didn't want to leave my wife alone.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Is there any reason why that would not have 2 been possible? 3 A. Taking care of my wife, I guess. I didn't want 4 to leave her alone for too long of a time. 5 Q. Well, is it correct that your wife passed away 6 several weeks before the election day? 7 A. Correct. 8 MR. MIRZA: Objection, form. 9 A. I had already voted by mail. 10 Q. (By Mr. Bryant) Is there any reason why you 11 could not have either voted in person on election day or 12 voted in person in early voting sometime after your 13 wife's passing? 14 MR. MIRZA: Objection, form. 15 MS. WARMS: Objection, form. 16 A. I had already voted by mail, so I didn't even 17 think about it. 18 Q. (By Mr. Bryant) Had you thought about it, is 19 there anything that would have prevented you? Had you 20 known that your -- that there was some issue with your 21 ballot being counted, referring to your second mail in 22 ballot, is there any reason why you could not have cast 23 your ballot in person on election day, or in the week or 24 two prior thereto during the early voting period? 25 MS. WARMS: Objection, form. You can</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Your wife had passed already at that point, 2 right? 3 MS. WARMS: Okay. 4 A. Yeah, but I had already voted by mail. 5 MS. WARMS: Objection, cumulative. 6 MR. BRYANT: I'm trying to get an answer 7 to my actual question. 8 MS. WARMS: He's answered your question. 9 Q. (By Mr. Bryant) Was there any physical 10 obstacle to your voting in person after your wife passed 11 in mid October 2022? 12 A. I had already voted, so I didn't even consider 13 that. 14 MS. WARMS: Objection, form. 15 MR. BRYANT: Objection, nonresponsive. 16 Q. (By Mr. Bryant) During the period in September 17 and October of 2022 prior to your wife's passing, did -- 18 were there times when your son looked after your wife 19 and you took care of other necessary tasks? 20 A. Very shortly, just for a very small amount of 21 time. 22 Q. And -- 23 A. Because she wanted me there. There's things 24 that I can do that he couldn't do. 25 Q. And did -- during that period, how did you take</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
§
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX F

Transcript of the Testimony of
John Bucy III

Date:

August 09, 2022

Case:

LA UNION DEL PUEBLO ENTERO V. GREGORY W. ABBOTT

John Bucy III

August 09, 2022
Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>LULAC TEXAS, et al.,)) Plaintiffs,)) V.) Case No. 1:21-cv-0786-XR) JOHN SCOTT, et al.,)) Defendants.)</p> <hr/> <p>MI FAMILIA VOTA, et al.,)) Plaintiffs,)) V.) Case No. 5:21-cv-0920-XR) GREG ABBOTT, et al.,)) Defendants.)</p> <hr/> <p>UNITED STATES OF AMERICA,)) Plaintiffs,)) V.) Case No. 5:21-cv-1085-XR) THE STATE OF TEXAS, ET AL.,)) Defendants.)</p> <hr/>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>ON BEHALF OF THE DEFENDANTS: PATRICK K. SWEETEN, ESQ. KATHLEEN HUNKER, ESQ. Office of the Attorney General P.O. Box 12548 Austin, Texas 78711 Telephone: (512) 463-4139 patrick.sweeten@oag.texas.gov kathleen.hunker@oag.texas.gov</p> <p>ON BEHALF OF THE WITNESS: SCOTT BRAZIL, ESQ. Brazil & Dunn, LLP 13231 Champion Forest, Dr. Suite 406 Houston, Texas 77069 Telephone: (281) 580-6310 scott@brazilanddunn.com</p> <p>VIDEOGRAPHER: Manuel Martin Mamartin73@gmail.com</p> <p>ALSO PRESENT VIA ZOOM: Elijah Watkins, Steel Rives, LLP, Mi Familia Vota Leigh Ann Tognetti, Hidalgo County DA's Office Michael Stewart, Department of Justice Lauren Smith, Department of Justice Nicholas Adkins, Fried Frank Sameer Birring, Harris County Elections Admin. Rachel Miller, Jones Day Abigail Schultz, TX Office of Attorney General Georgina Yeomans, NAACP LDF, HAUL Plaintiffs Will Wilder, Brennan Center, LUPE Plaintiffs</p>
<p style="text-align: right;">Page 3</p> <p style="text-align: center;">ORAL & VIDEO DEPOSITION OF JOHN BUCY III</p> <p style="text-align: center;">August 9, 2022</p> <hr/> <p>Oral deposition of JOHN BUCY III, produced as a witness at</p> <p>the instance of the defendants, and duly sworn, was taken</p> <p>in the above-styled and numbered cause on the 9th day of</p> <p>August, 2022, before Patrick Stephens, Certified</p> <p>Court Reporter, at 1717 N Interstate Hwy 35, Suite 305,</p> <p>Round Rock, Texas 78664.</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">I N D E X</p> <p>1</p> <p>2 APPEARANCES 04</p> <p>3 JOHN BUCY III</p> <p>4 Cross-Examination by Mr. Sweeten 08</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Reporter's Certificate 169</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

John Bucy III

August 09, 2022
Pages 154 to 157

<p style="text-align: right;">Page 154</p> <p>1 A And -- and I remember speaking to this provision some</p> <p>2 during these ongoing hearings.</p> <p>3 Q And you agree that B says: A watcher may not be</p> <p>4 present at the voting station when a voter is preparing the</p> <p>5 voter's ballot or is being assisted by a person of the voter's</p> <p>6 choice; correct?</p> <p>7 A Correct.</p> <p>8 Q And that -- that existed, again, since 1997 at least;</p> <p>9 right?</p> <p>10 A Yep.</p> <p>11 Q And you would agree with me that that provides</p> <p>12 protections about what the poll watcher may or may not do;</p> <p>13 right?</p> <p>14 A Yes.</p> <p>15 Q And then if we look at 33.05(a), it says: While on</p> <p>16 duty, a watcher may not converse with an election officer</p> <p>17 regarding the election except to call attention to an</p> <p>18 irregularity or violation of the law; right?</p> <p>19 A Yep.</p> <p>20 Q You would agree that it says: You may also converse</p> <p>21 -- you may not converse with a voter and may not communicate in</p> <p>22 any manner with a voter regarding the election. That's what</p> <p>23 the existing provision says; right?</p> <p>24 A Yes.</p> <p>25 Q And that's been in existence, if we look below, at</p>	<p style="text-align: right;">Page 156</p> <p>1 interim hearings yet, where I'm sure, if those are out there,</p> <p>2 we'll hear them.</p> <p>3 Q Okay. Has -- has any election official reached out</p> <p>4 to you to discuss issues related to the implementation (ph) --</p> <p>5 implementation of SB1?</p> <p>6 A I've -- I've heard some concerns about who can send</p> <p>7 out ballot by mails and what can be posted on our website and</p> <p>8 that kind of thing.</p> <p>9 Q From whom?</p> <p>10 A Just generically reading press articles,</p> <p>11 conversations around, you know, what organizations have that</p> <p>12 authority now, what's been restricted. I think there was</p> <p>13 conversations around Dan Patrick sending out a whole bunch of</p> <p>14 ballot-by-mail applications and where did that fall into the</p> <p>15 provisions, and I'm just thinking more generically kind of</p> <p>16 press articles and things we've seen.</p> <p>17 Q Okay. Other than what you've read in the press, have</p> <p>18 you had any specific conversations with any of the county</p> <p>19 election officials in this state about difficulties or feedback</p> <p>20 regarding SB1 and its implementation?</p> <p>21 A I'm not recalling any specific conversations at this</p> <p>22 time.</p> <p>23 Q Have you talked to any election officials since the</p> <p>24 -- since SB1 was implemented about SB1 or its contents?</p> <p>25 A You know, I -- I occasionally speak to Chris Davis</p>
<p style="text-align: right;">Page 155</p> <p>1 least since 1986; correct?</p> <p>2 A Yes.</p> <p>3 Q SB1 neither changed that provision or the preceding</p> <p>4 provision, did it?</p> <p>5 A Correct, and I think it even references this.</p> <p>6 Q Okay. And, in fact, SB1 provides that a poll watcher</p> <p>7 can be ejected for breach of the peace or for a violation of</p> <p>8 law, can't they?</p> <p>9 A I think that's some areas we really fought for, yeah.</p> <p>10 Q And that's in SB1; right?</p> <p>11 A Correct.</p> <p>12 Q Okay. Now, you would agree with me that the</p> <p>13 implementation -- had -- let me ask it this way: The quorum</p> <p>14 break lasted for about six weeks; correct?</p> <p>15 A That sounds right.</p> <p>16 Q Okay. And that was -- and -- and ultimately SB1</p> <p>17 passed sometime in August of 2021; right?</p> <p>18 A Yes.</p> <p>19 Q Okay. Have you had -- heard any concerns about the</p> <p>20 amount of time to implement SB1?</p> <p>21 A Not that I can think of at the moment.</p> <p>22 Q Okay. Have you heard any complaints from election</p> <p>23 workers about how much time it took to implement -- or not</p> <p>24 being given enough time to implement SB1?</p> <p>25 A I haven't, but I don't -- we haven't had those</p>	<p style="text-align: right;">Page 157</p> <p>1 with Williamson County. I don't remember any specific details</p> <p>2 of any conversation at this moment.</p> <p>3 Q Okay. So is it fair to say that as you're sitting</p> <p>4 here today you cannot recount any conversations with any Texas</p> <p>5 election officials regarding SB1 since its passage?</p> <p>6 A Man, I'm -- I'm trying to remember. I don't want to</p> <p>7 mislead you just because I do speak to Chris Davis somewhat</p> <p>8 periodically, but I don't -- I'm not remembering any specific</p> <p>9 conversation.</p> <p>10 Q Okay. And that's with Chris Davis or any -- any</p> <p>11 other county election official.</p> <p>12 A Yeah. I mean, we've only had the one interim</p> <p>13 hearing, and -- and it didn't deal with -- I mean, it dealt</p> <p>14 with the poll-watcher training, so we talked to Keith Ingram</p> <p>15 about that and some of the challenges about how we can make the</p> <p>16 training -- you know, it was a good start, right? We got it,</p> <p>17 we wanted it, how do we make it better. So there's been some</p> <p>18 conversations through that hearing. I'd have to go back and</p> <p>19 reference that hearing.</p> <p>20 Q Okay. So -- so --</p> <p>21 A Outside of that hearing, I can't remember any</p> <p>22 specific conversations that I had.</p> <p>23 Q When was there a hearing? What are you -- what</p> <p>24 hearing are you talking about?</p> <p>25 A The elections committee had an interim hearing maybe</p>

John Bucy III

August 09, 2022
Pages 158 to 161

<p style="text-align: right;">Page 158</p> <p>1 two months ago, roughly.</p> <p>2 Q And -- and the elections committee had -- was SB1</p> <p>3 discussed at that hearing?</p> <p>4 A To some extent, because we talked about the -- the</p> <p>5 poll-watcher training.</p> <p>6 Q Did you -- were any county election administrators</p> <p>7 present? Yes or no or I don't know.</p> <p>8 A I believe there were. I know Chris Davis wasn't</p> <p>9 there, which I thought was --</p> <p>10 Q Okay.</p> <p>11 A You know, he -- he had a conflict.</p> <p>12 Q So outside of the single hearing that you've had with</p> <p>13 the elections committee --</p> <p>14 A I don't remember any specific conversations outside</p> <p>15 of that.</p> <p>16 Q Representative Bucy, I've got to ask --</p> <p>17 A Oh, I'm sorry.</p> <p>18 Q -- the whole question.</p> <p>19 A Go ahead. Yeah.</p> <p>20 Q That's okay. All right. Outside of the hearing that</p> <p>21 you attended sometime after the passage of SB1, are there --</p> <p>22 are there any specific county election officials that you've</p> <p>23 talked to about SB1? And that's a yes or no.</p> <p>24 A Not that I recall.</p> <p>25 Q Okay. A signature verification. In the old days</p>	<p style="text-align: right;">Page 160</p> <p>1 affixing ID numbers on ballots by mail.</p> <p>2 A Yes.</p> <p>3 Q Okay. Now, you opposed, though, having -- having</p> <p>4 verification by ID on ballots by mail; is that correct?</p> <p>5 A Voting is a fundamental right, and so adding</p> <p>6 restrictions that will make it harder, I oppose those, yes.</p> <p>7 Q Okay. So any match of any ID, you opposed.</p> <p>8 A I mean, I don't know if that's true. I -- I'm not</p> <p>9 sure we -- we -- that was even on the table. We have some</p> <p>10 policies and law around voter ID that are set right now, and,</p> <p>11 in fact, I tried to expand on some of the voter ID. I had a</p> <p>12 bill to do that would have allowed, you know, like student IDs,</p> <p>13 for example, to use, and -- and that was fought back and -- and</p> <p>14 not passed. So -- so I don't -- I don't think I would say</p> <p>15 that. I just think we want to make sure we're very careful</p> <p>16 when you add any provisions around our fundamental right to the</p> <p>17 ballot box.</p> <p>18 Q Okay. Is there any verification system outside of</p> <p>19 signatures that you advocated for implementing?</p> <p>20 A I don't know if it would directly speak to that.</p> <p>21 I've been very passionate for online voter registration, which</p> <p>22 I think would lead to better data and therefore better rolls</p> <p>23 and information around voting because it's put in directly by</p> <p>24 the individual, it's typed in so there's not -- as you just</p> <p>25 talked about with signatures, there's not interpretation to</p>
<p style="text-align: right;">Page 159</p> <p>1 prior to SB1, when you sent in a mail-in ballot, the method</p> <p>2 that was utilized was signature verification; correct?</p> <p>3 A Correct.</p> <p>4 Q And that -- that was utilized to determine whether or</p> <p>5 not the person that sent in the ballot was the -- in fact the</p> <p>6 person that was registered to vote for that ballot; correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. And signature verification was the only method</p> <p>9 -- mechanism for verifying; correct?</p> <p>10 A I'll take your word for it.</p> <p>11 Q Okay. Can you think of any others?</p> <p>12 A No, no.</p> <p>13 Q Okay. Now, you would agree that there's some</p> <p>14 significant issues with signature verification as being a -- a</p> <p>15 -- an objective verifier; correct?</p> <p>16 A I would agree, and we heard from disability groups</p> <p>17 and senior groups and others with concerns around it.</p> <p>18 Q Okay. And you would agree with me that signatures</p> <p>19 sometimes change in people's lives.</p> <p>20 A Yes.</p> <p>21 Q You would agree with me that because of disabilities,</p> <p>22 signatures can be different than the original signature.</p> <p>23 A Yes.</p> <p>24 Q Okay. And you would agree with me that signatures</p> <p>25 are -- are a far more subjective measure than placing and</p>	<p style="text-align: right;">Page 161</p> <p>1 handwriting, there's not a middle person to -- to deliver it,</p> <p>2 so that's one area that I fought for that I think would</p> <p>3 modernize and create safer and more accurate data.</p> <p>4 MR. SWEETEN: Okay. I might have to object as</p> <p>5 nonresponsive because my question is something different.</p> <p>6 THE WITNESS: Oh.</p> <p>7 BY MR. SWEETEN (resuming):</p> <p>8 Q My question is: Did you advocate for any other sort</p> <p>9 of verification for mail-in ballots?</p> <p>10 A Not that I recall at this moment.</p> <p>11 Q Can -- are there any that you have in mind right now</p> <p>12 outside of signature verifications that you believe would</p> <p>13 improve the system and -- and make sure that those that are</p> <p>14 sending in the ballots are in fact those who were entitled to</p> <p>15 cast their ballot?</p> <p>16 A I -- I have a bill that would allow for, like,</p> <p>17 individuals with disability to be able to use -- kind of like</p> <p>18 we do with the military overseas, send the ballot and therefore</p> <p>19 they can use their computer to fill it out. So let's say if</p> <p>20 they -- if they -- if they're blind, visually challenged, they</p> <p>21 could use their technology to fill out their ballot and then</p> <p>22 still send back and -- a specific -- you know, they can still</p> <p>23 send -- print and send back a paper ballot, but like we do with</p> <p>24 the military, be able to E-mail that ballot through a secured</p> <p>25 network that we've been using. So I've propose that, and that</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX G

Transcript of the Testimony of
Jacquelyn Callanen

Date:

April 04, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

Jacquelyn Callanen

April 04, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)
ET AL)
vs.) CASE NO. 5:21-CV-844-XR
GREGORY W. ABBOTT, ET AL)

OCA-GREATER HOUSTON, ET AL)
vs.) CASE NO. 1:23-CV-780-XR
JOHN SCOTT, ET AL)

HOUSTON JUSTICE, ET AL)
vs.) CASE NO. 5:21-CV-848-XR
GREGORY WAYNE ABBOTT, ET AL)

LULAC TEXAS, ET AL)
vs.) CASE NO. 1:21-CV-0786-XR
JOHN SCOTT, ET AL)

MIFAMILIA VOTA, ET AL)
vs.) CASE NO. 5:21-CV-0920-XR
GREG ABBOTT, ET AL)

UNITED STATES OF AMERICA)
vs.) CASE NO. 5:21-CV-1085-XR
THE STATE OF TEXAS, ET AL)

ORAL VIDEOTAPED DEPOSITION

JACQUELYN CALLANEN

APRIL 4, 2022

Jacquelyn Callanen

April 04, 2022

Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 ORAL VIDEOTAPED DEPOSITION OF JACQUELYN CALLANEN, 2 produced as a witness at the instance of the Defendant 3 and duly sworn, was taken in the above-styled and 4 numbered cause on the 4TH day of April, 2022, from 5 9:11 a.m. to 4:38 p.m., before Sarah A. Prugh , 6 Certified Shorthand Reporter in and for the State of 7 Texas, reported by machine shorthand at the Offices of 8 The Texas Attorney General, Consumer Protection 9 Division, San Antonio Regional Office, 112 E. Pecan, 10 Suite 735, San Antonio, Texas, pursuant to the Federal 11 Rules of Civil Procedure and the provisions stated on 12 the record or attached hereto. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 FOR PLAINTIFFS LA UNION DEL PUEBLO ENTERO, SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT, MEXICAN AMERICAN 2 BAR ASSOCIATION OF TEXAS, TEXAS HISPANICS ORGANIZED FOR POLITICAL EDUCATION, JOLT ACTION, WILLIAM C. VELASQUEZ 3 INSTITUTE, FIEL HOUSTON, INC.: 4 Ms. Nina Perales E-mail: nperales@maldef.org 5 Ms. Julia R. Longoria (Via Zoom) E-mail: jlongoria@maldef.org 6 Mexican American Legal Defense and Educational Fund 110 Broadway, Suite 300 7 San Antonio, Texas 78205 Telephone: 210-224-5476 8 9 Ms. Breanna Williams (Via Zoom) Fried, Frank, Harris, Shriver & Jacobson, LLP One New York Plaza 10 New York, New York 10004 Telephone: 212-859-8000 11 E-mail: breanna.williams@friedfrank.com 12 Mr. Patrick Berry (Via Zoom) E-mail: patrick.berry@nyu.edu 13 Ms. Jasleen Singh (Via Zoom) E-mail: jasleen.singh@nyu.edu 14 Brennan Center for Justice at NYU School of Law 120 Broadway, Suite 1750 15 New York, New York 10271 Telephone: 646-292-8389 16 17 Mr. Will Wilder (Via Zoom) Brennan Center for Justice at NYU School of Law 1140 Connecticut Avenue, NW, Suite 1150 18 Washington DC, 20036 Telephone: 205-540-0362 19 E-mail: wilderw@brennan.law.nyu.edu 20 FOR PLAINTIFFS OCA-GREATER HOUSTON, LEAGUE OF WOMEN VOTERS OF TEXAS, REVUP-TEXAS, TEXAS ORGANIZING PROJECT 21 AND WORKERS DEFENSE ACTION FUND: 22 Ms. Lia Sifuentes Davis (Via Zoom) Disability Rights Texas 23 2222 West Braker Lane Austin, Texas 78758-1024 24 Telephone: 512-454-4816 E-mail: ldavis@drtx.org 25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES 2 3 FOR PLAINTIFFS HOUSTON AREA URBAN LEAGUE; DELTA SIGMA THETA SORORITY, INC.; THE ARC OF TEXAS; AND JEFFREY 4 LAMAR CLEMMONS: 5 Mr. Kenneth E. Broughton (Via Zoom) E-mail: kbroughton@reedsmith.com 6 7 Mr. Jarrett Dillard (Via Zoom) 8 Ms. Harneet Kaur (Via Zoom) Reed Smith, LLP 811 Main Street, Suite 1700 9 Houston, Texas 77002-6110 Telephone: 713-469-3800 10 11 Ms. Danielle Ahlrich 401 Congress Avenue, Suite 1800 Austin, Texas 78701 12 Telephone: n512-623-1777 E-mail: dahlrich@reedsmith.com 13 14 Ms. Ciara A. Sisco Email: csisco@naacpldf.org 15 Ms. Liliana Zaragoza (Via Zoom) Email: lzaragoza@naacpldf.org NAACP Legal Defense and Educational Fund, Inc. 16 40 Rector Street, 5th Floor New York, New York 10006 17 Telephone: 212-965-2200 18 Ms. Shira Wakschlag (Via Zoom) The Arc of the United States, Inc. 19 1825 K Street, NW, Suite 1200 Washington, DC 20006 20 Telephone: 202-534-3708 E-mail: wakschlag@thearc.org 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 FOR PLAINTIFF LULAC TEXAS: 2 Mr. Graham W. White Elias Law Group, LLP 3 10 G Street NE, Suite 600 Washington, DC 20002 4 Telephone: 202-968-4490 E-mail: gwhite@elias.law 5 6 FOR PLAINTIFF MI FAMILIA VOTA: 7 Ms. Wendy Olson (Via Zoom) Stoel Rivas, LLP 101 S. Capitol Boulevard, Suite 1900 8 Boise, Idaho 83702 Telephone: 208-387-4291 9 E-mail: wendy.olson@stoel.com 10 FOR DEFENDANT HIDALGO COUNTY ELECTIONS ADMINISTRATOR YVONNE RAMON: 11 Ms. Josephine Ramirez (Via Zoom) 12 Ms. Leigh Tognetti (Via Zoom) Hidalgo County District Attorney's Office 13 E-mail: josephine.ramirez@da.co.hidalgo.tx.us 14 FOR DALLAS COUNTY: 15 Mr. Jason G. Schuette (Via Zoom) Dallas District Attorney's Office 16 17 FOR DEFENDANTS GUERRERO & GARZA: 18 Mr. Anthony "Tony" Nelson (Via Zoom) Assistant Travis County Attorney E-mail: tony.nelson@traviscountytx.gov 19 20 FOR UNITED STATES OF AMERICA: 21 Mr. Michael E. Stewart (Via Zoom) Trial Attorney Civil Rights Division, Voting Section 22 US Department of Justice Telephone: 202-598-7233 23 E-mail: michael.stewart3@usdoj.gov 24 25</p>

Jacquelyn Callanen

April 04, 2022
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<p style="text-align: right;">Page 50</p> <p>1 A. Yes.</p> <p>2 Q. Are those sections describing the initiatives</p> <p>3 that they wanted you to undertake?</p> <p>4 A. Correct.</p> <p>5 MS. CUBRIEL: Hold on a second. Somebody</p> <p>6 is not on mute.</p> <p>7 REPORTER: I think they have muted now.</p> <p>8 Q. (By Mr. Jeff White) Yeah, I understand. The</p> <p>9 technology, one of the gifts of the pandemic; right?</p> <p>10 Zoom meetings?</p> <p>11 A. Right.</p> <p>12 Q. So to reset, we are on the second page of</p> <p>13 Exhibit 3 where it says Section I. Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Is it correct that this section lists a number</p> <p>16 of changes to election procedures that the commissioners</p> <p>17 were hoping you would consider?</p> <p>18 A. Correct.</p> <p>19 Q. And we have discussed this previously I believe</p> <p>20 but did you implement any of the procedures listed here?</p> <p>21 A. Again, we did stay open until 10:00 o'clock for</p> <p>22 two days.</p> <p>23 Q. And that would be under the sub-bullet lower</p> <p>24 case V; correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 applications already signed, sealed and delivered, so to</p> <p>2 speak.</p> <p>3 Q. So if you go to page -- I believe it is the</p> <p>4 third page of Exhibit Number 3, do you see at the bottom</p> <p>5 where it says approved?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And can you read that line, please?</p> <p>8 A. Approved 14th day of August 2020.</p> <p>9 Q. So this resolution passed the commissioners</p> <p>10 court in August of 2020?</p> <p>11 A. Correct.</p> <p>12 Q. And I believe you just said that you would be</p> <p>13 emailing ballots September 2020?</p> <p>14 A. 15th, uh-huh.</p> <p>15 Q. So there is a month between this resolution and</p> <p>16 the date you are mailing ballots. Is that not enough</p> <p>17 time to make changes?</p> <p>18 A. Again, I don't -- I don't want to be</p> <p>19 dismissive. But if you understand the way the wheels of</p> <p>20 county government turn, they turn rather slowly. If</p> <p>21 this was signed on the 14th, then they would have had to</p> <p>22 go. And our vendor, they would have had to notify a</p> <p>23 vendor, get the database, get a permit number from the</p> <p>24 post office, put in a check which takes about two weeks</p> <p>25 to get from the county so that the county could start</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. What would you have told the commissioners if</p> <p>2 they had consulted you before passing this resolution?</p> <p>3 MS. CUBRIEL: Objection, form.</p> <p>4 THE WITNESS: This was not timely as far</p> <p>5 as mailing out the mail ballot applications. It was a</p> <p>6 waste of time, money, added a level of confusion for the</p> <p>7 voters and doubled our work load.</p> <p>8 Q. (By Mr. Jeff White) Why was it not timely?</p> <p>9 A. This was at the end of August when we had</p> <p>10 already as of -- I want to say September 15th, we were</p> <p>11 mailing ballots. So this came in at the 11th hour.</p> <p>12 Again, Texas has been very very very</p> <p>13 strong on mail balloting and Texas implements -- it is</p> <p>14 called an annual ballot by mail which is, again, so</p> <p>15 accepted by our voters. And that means they put in one</p> <p>16 application at the beginning of the year and that gets</p> <p>17 them every single election that they are eligible for.</p> <p>18 And it is a win-win for everyone. It is a</p> <p>19 win for the voter. They don't have to remember to send</p> <p>20 it in. They don't have to go find a stamp for each</p> <p>21 election. It comes in. It is a win-win for us because</p> <p>22 if we have three or five or seven elections in a year,</p> <p>23 we don't have to pound in that same application each</p> <p>24 time. So we enter it once in the year and it rolls over</p> <p>25 for each one. So we already had the majority of our</p>	<p style="text-align: right;">Page 53</p> <p>1 placing these.</p> <p>2 So again, because it was signed on the</p> <p>3 14th does not mean it was implemented on the 14th,</p> <p>4 county government moves quite slowly.</p> <p>5 Q. If you were going to make changes to election</p> <p>6 procedures, in order to do them correctly, how much lead</p> <p>7 time do you need?</p> <p>8 A. Are you asking me as we sit here in the midst</p> <p>9 of SB-1? We needed at least a year, at least a year</p> <p>10 when we are making major changes, at least a year, you</p> <p>11 know, maybe six months because there are only so many</p> <p>12 vendors that are certified by the State of Texas to</p> <p>13 produce election records.</p> <p>14 So it is like we can't go run down to</p> <p>15 Kinko's to have, you know, 75,000-100,000 of these</p> <p>16 applications made. And again, to go to the post office</p> <p>17 to get a permit number, and then to get the check cut to</p> <p>18 put in there and mail them all out, it takes time. And</p> <p>19 again, for us, again, just coming off of this SB-1, we</p> <p>20 would have loved to have had a year.</p> <p>21 Q. So would it be fair to say that for a normal</p> <p>22 election, you would get going on implementing it a year</p> <p>23 in advance?</p> <p>24 A. We run on six months. The project management</p> <p>25 system we run is six months. Can we do an election in</p>

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<p style="text-align: right;">Page 54</p> <p>1 one month? Yes, but it is really stressful for the 2 staff. You know, when we get a special election called, 3 for instance, I mean it is all hands on deck. And it 4 can be done. 5 But for large elections, I mean, again, 6 you have to think. We have got to get/reach out to the 7 facilities so that we can reserve them. There are just 8 so many pieces to this puzzle that six months is 9 perfect. 10 Q. So six months is the time for preparation for a 11 normal election; correct? 12 A. Yes, sir. 13 Q. And when you are referring to saying you would 14 have preferred a year, was that because the laws were 15 changing? 16 A. So many of the laws were changing at the same 17 time. 18 Q. So when laws change, the six months an go up to 19 a year to try to implement them? 20 A. That is a nice way to put it, yes, sir. 21 Q. So just kind of wrapping up on the 22 November 2020, what happened to turn out in that 23 election? 24 A. We had the turn out that we were expecting. I 25 mean we really did -- the mail ballots went up, way up.</p>	<p style="text-align: right;">Page 56</p> <p>1 a pandemic, who has the authority to specify what the 2 voting procedures are going to be in Texas elections? 3 A. Well, I mean it obviously comes from the 4 Secretary of State's office when you have an elections 5 administrator. The elections administrator sets the 6 elections. 7 Q. Let me step back a bit I guess. As an election 8 administrator, is it your duty to operate in accordance 9 with the Texas Election Code? 10 A. Absolutely. 11 Q. And who can modify the Election Code? 12 A. The governor. 13 Q. When? 14 A. The legislature. 15 MS. CUBRIEL: We have been going for about 16 an hour I think. Do you need to take a break? 17 MR. JEFF WHITE: It would be fine. If you 18 need a break, it would be fine for me. 19 MS. CUBRIEL: Does anybody else need to 20 take a break? 21 MS. PERALES: Yeah, I think a break would 22 be good. 23 MR. JEFF WHITE: Why don't we go off the 24 record? 25 VIDEOGRAPHER: The time is 10:21 a.m. and</p>
<p style="text-align: right;">Page 55</p> <p>1 But again, the people voted by mail. They didn't vote 2 in person. But as far as the percentage of the people 3 who voted, it did not change much. The method changed 4 but the number of people didn't change that much. 5 Q. And would you agree that November 2020 was not 6 a normal election in Bexar County? 7 A. It was not a normal election, yes, sir. 8 Q. And a lot of these changes were due to the 9 pandemic; correct? 10 A. Correct. 11 Q. And the Election Code didn't change in November 12 of 2020; did it? 13 MS. CUBRIEL: Objection, form. 14 Q. (By Mr. Jeff White) Let me strike that. We 15 talked about changes to the early voting period; 16 correct? 17 A. Yes, sir. 18 Q. And we talked about extended days for dropping 19 off ballots in person; correct? 20 A. Yes, sir. 21 Q. Those changes were not changes made in the 22 Election Code but changes made through governor 23 proclamation; correct? 24 A. Yes, sir. 25 Q. And in normal circumstances when you are not in</p>	<p style="text-align: right;">Page 57</p> <p>1 we are off the record. 2 (Recess taken) 3 VIDEOGRAPHER: The time is 10:32 a.m. and 4 we are back on the record. 5 Q. (By Mr. Jeff White) Ms. Callanen or Jackie, I 6 am going to shift a little bit now and get to the meat 7 of this case. Senate Bill-1. And I just wanted to ask. 8 You reviewed Senate Bill-1 to prepare for today; 9 correct? 10 A. Correct. 11 Q. And what is your impression of the bill or your 12 thoughts in your own words? 13 MS. CUBRIEL: Object to form. 14 Q. (By Mr. Jeff White) What do you think about 15 Senate Bill-1? 16 MS. CUBRIEL: Object to form. You can 17 answer. 18 THE WITNESS: I am trying to figure out 19 how to answer. There is a lot in my opinion. In my 20 opinion, there is a lot of unnecessary items in here. 21 There is a lot of good things in here and there is a lot 22 of not so good things here. 23 Q. (By Mr. Jeff White) I am kind of writing those 24 down. What would you say are unnecessary in Senate 25 Bill-1?</p>

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<p style="text-align: right;">Page 58</p> <p>1 A. Again, I guess if we go back, Jeff, to before 2 we took a break and things, the big one that we talked 3 about for the length of time to implement things, it was 4 onerous and an undue stress point for us and many of the 5 counties to have to get all of the videotaping, to turn 6 on the video cameras. The expense is outrageous. There 7 were a lot of unfunded mandates in this that we had to 8 really scramble to implement. And I guess what I am 9 saying is just in the natural progression in the natural 10 preparation for each election to put this many changes 11 in this short of time was -- I will just say it -- a 12 disaster waiting to happen.</p> <p>13 Q. So would it be fair to say if there was more 14 lead time to implement the changes, you would have been 15 more comfortable with them?</p> <p>16 A. Yes.</p> <p>17 Q. You said there were three types of the bill, 18 unnecessary, good and not so good. I think we talked 19 about unnecessary. What would you say are the not so 20 good provisions?</p> <p>21 A. Again, probably if not the biggest not so good 22 was in the implementation time line. You know, when it 23 takes effect in December, I think December 2nd, it was 24 to take effect. And we weren't getting any directives 25 or information or new forms or new envelopes or anything</p>	<p style="text-align: right;">Page 60</p> <p>1 okay, I am going to do this. It was the wrong 2 application. It wasn't their fault. But all of a 3 sudden, we had our normal applications coming in. 4 Again, a county the size of ours, it is thousands of 5 them that come in. We had to reject these. With had to 6 send them a new application once we received them.</p> <p>7 Like I said, they were approved in 8 January. So again, by the time we got them from our 9 printer, had to set it up, start sending it back out, 10 did huge media blitzes, tried to get the word out, it 11 was monumental.</p> <p>12 And piece that I personally -- I guess 13 that is what this is about -- that I personally abhor, 14 and that is a strong word, is that in SB-1, it is 15 written that I or my staff, anyone, you know, can only 16 send an application, not a ballot, an application to the 17 person that requests it. That has been the most onerous 18 part of this entire -- entire SB-1 in my opinion.</p> <p>19 If you would have to sit on the end of a 20 phone call from one of our long-standing mail ballot 21 applicants, and this mother calls me and says hey, blah, 22 blah, blah, can I have -- it is time for us. Would you 23 please mail myself and my son an application for a 24 ballot by mail? I have to say I will sure send yours 25 but I need to talk to your son. Can I please talk to</p>
<p style="text-align: right;">Page 59</p> <p>1 from the Secretary of State to come in. Our voters, you 2 know, it is -- it has been -- it has been unbelievably 3 trying to answer all of the media because everybody is 4 just spinning about how many applications we rejected. 5 I mean that's the hot topic, how many we rejected, how 6 many we rejected.</p> <p>7 Well, again, again, the forms were 8 changed. The law was changed. The forms didn't come 9 down until January. January 14th was the first time 10 that we had the ability to look at the new application 11 for ballot by mail.</p> <p>12 So again, you will hear me say these are 13 my voters, my Bexar County -- they are our voters. And 14 for years and years and years, we have those wonderful 15 people who -- 25,000, 40,000, they know how to vote by 16 mail. They have done it. They keep their applications 17 for ballots by mail.</p> <p>18 I mean it is like okay, I know I am going 19 to need one in January so they will put one with their 20 important papers. That is what they tell us. So come 21 January 1, they fill out that application and they put 22 it in the mail. They love that. Now they don't have to 23 worry for the entire year.</p> <p>24 All of a sudden, these regular voters of 25 ours did that. They woke up after New Year's and said</p>	<p style="text-align: right;">Page 61</p> <p>1 him on the phone? Just put him on the phone so he can 2 ask me for one.</p> <p>3 He is disabled and he can't speak. I 4 can't send him an application. So what I said to her 5 was well, if you have a computer, go online and download 6 it. I can't send him one.</p> <p>7 So then I go out and I tell people well, 8 just go online and get this application. And then I am 9 accused of being insensitive because not everyone has a 10 computer. And I know that, I have walked right into 11 that and that's not fair.</p> <p>12 We have a phone system, an IVR system and 13 I know people hate those phone trees, press one, press 14 two, press three. And it has been so successful for us. 15 Our voters 24 hours a day in this mailbox, if you want a 16 mail ballot application, leave your name and address, 17 phone number and we will mail one out to you.</p> <p>18 Well, the husband, one or the other says 19 okay, please send me two applications. We can send one. 20 We can send one. If we have the phone number, we call 21 them and say can we please speak to whoever the other 22 one is.</p> <p>23 Well, again, just stop, Jeff, and think, 24 we didn't have the staff ramped up to do that. I didn't 25 have 20 temps hired and trained and everything else to</p>

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<p style="text-align: right;">Page 62</p> <p>1 do his. I had no idea of the impact that one part of</p> <p>2 SB-1 was going to have on us.</p> <p>3 I'm sorry. I will let it go at that.</p> <p>4 REPORTER: Trey, there is a note in the</p> <p>5 chat that their audio is fine but the sound is low.</p> <p>6 THE WITNESS: Could you turn that down?</p> <p>7 VIDEOGRAPHER: The only way I can fix it,</p> <p>8 we have to go off the record and I have to get the phone</p> <p>9 set up.</p> <p>10 REPORTER: I am just letting you know what</p> <p>11 is there.</p> <p>12 MS. CUBRIEL: Do you want to go off the</p> <p>13 record to --</p> <p>14 MR. JEFF WHITE: Yeah, let's go off the</p> <p>15 record.</p> <p>16 VIDEOGRAPHER: The time is 10:41 a.m. We</p> <p>17 are off the record.</p> <p>18 (Recess taken)</p> <p>19 VIDEOGRAPHER: The time is 10:43 a.m. and</p> <p>20 we are back on the record.</p> <p>21 Q. (By Mr. Jeff White) Just to get reset, I</p> <p>22 believe you were telling me about the problems that you</p> <p>23 have had with voters calling in to request applications</p> <p>24 for ballot by mail; correct?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Do you know why they implemented that provision</p> <p>2 as applicable to election administrators?</p> <p>3 MS. CUBRIEL: Objection, form.</p> <p>4 THE WITNESS: Absolutely I do not.</p> <p>5 Q. (By Mr. Jeff White) Do you think it might be</p> <p>6 tied to what happened in Harris County in 2020?</p> <p>7 MS. CUBRIEL: Objection, form.</p> <p>8 THE WITNESS: I do not.</p> <p>9 Q. (By Mr. Jeff White) If a voter comes in to your</p> <p>10 office, are they allowed to pick up applications for</p> <p>11 ballots by mail?</p> <p>12 A. One.</p> <p>13 Q. If somebody is in the car with them, would they</p> <p>14 be able to pick up for that other person?</p> <p>15 A. (Shakes head from side to side.)</p> <p>16 MS. CUBRIEL: You need to say it out loud.</p> <p>17 THE WITNESS: I'm sorry. No, we have to</p> <p>18 see the person and they have to request it.</p> <p>19 Q. (By Mr. Jeff White) But if they do have access</p> <p>20 to a computer, they can download them and you don't have</p> <p>21 any limits there on number of downloads; do you?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. You have also said that there were some</p> <p>24 good provisions in SB-1; right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. And you said that there have been a lot of</p> <p>2 problems in this last March 22 primary with that</p> <p>3 provision; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Are you doing things now to make sure that goes</p> <p>6 better in May and in later elections?</p> <p>7 A. Yes.</p> <p>8 Q. And what are you doing?</p> <p>9 A. We are -- we have developed our own insert that</p> <p>10 we are going to put with the application when we send it</p> <p>11 to the voter and also with the mail ballots so that we</p> <p>12 can get those two numbers. We want them to give us both</p> <p>13 numbers, not just one. Done, again, a lot of media,</p> <p>14 media blitzes, worked with radio stations, TV stations.</p> <p>15 Everybody has the application. Everyone, every time we</p> <p>16 have a chance to speak, we say we can only send one.</p> <p>17 It's counterintuitive. It really is</p> <p>18 because we have quote/unquote the official mail ballot</p> <p>19 application which is large enough. It is readily</p> <p>20 available. You know, we have tens of thousands of them</p> <p>21 in our office. But SB-1 did not put any of those</p> <p>22 requirements on consultants or parties. They only put</p> <p>23 it on people whose business it is to get the voter their</p> <p>24 ballot and to protect it. And for that, it just doesn't</p> <p>25 make sense.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. And what are those provisions?</p> <p>2 A. Again, for the protection of the voters, I</p> <p>3 personally really appreciate the portion of SB-1 that</p> <p>4 speaks to campaigns driving voters to the polls, and</p> <p>5 where we have to get the name and address and everyone</p> <p>6 of the driver and the relationship of the driver if they</p> <p>7 bring, you know, the six or seven people.</p> <p>8 It has historically been the role of the</p> <p>9 campaigns where they will rent a van and like go to a</p> <p>10 senior center and fill up the van. And then they ask</p> <p>11 for curbside where the driver of the van stays in there</p> <p>12 and the election official then assists all of those</p> <p>13 voters so that they can cast their ballot. But at that</p> <p>14 point, it is not private. It is not private.</p> <p>15 So I really appreciate that. I think that</p> <p>16 was one of the strongest pieces that was in here.</p> <p>17 Q. And how does SB-1 improve the privacy of that</p> <p>18 form of voting?</p> <p>19 A. Well, then at least we have the name of the</p> <p>20 person who drove all of those people to the polls. And</p> <p>21 again, I don't know what they are going to do with them.</p> <p>22 It is legal to do that. But maybe just the idea that</p> <p>23 they now have to fill out an official form and take an</p> <p>24 oath may give those voters a little bit more privacy. I</p> <p>25 don't know.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q. Cary Roberts?</p> <p>2 A. Carry Roberts.</p> <p>3 Q. And I believe you said you reach out to a</p> <p>4 representative named Jose. Can you give me his full</p> <p>5 name?</p> <p>6 A. Senator Jose Menendez. He is very actively</p> <p>7 involved in elections for us.</p> <p>8 Q. And I believe you said one other name.</p> <p>9 Barbara -- I didn't catch the last name.</p> <p>10 A. Representative Barbara Gervin-Hawkins. I want</p> <p>11 to say she is 125 I think.</p> <p>12 Q. And so in the last legislative session and</p> <p>13 special session, if you were talking to a representative</p> <p>14 or senator, it would have been those two people?</p> <p>15 A. Correct.</p> <p>16 Q. Through your lobbying?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Was that usually by phone or by email?</p> <p>19 A. With Senator Menendez, it is mainly in person.</p> <p>20 But again, phone, email. And with Barbara</p> <p>21 Gervin-Hawkins, it was Zoom or by phone or emails, you</p> <p>22 know.</p> <p>23 Q. Did you testify at any hearings?</p> <p>24 A. I did not. I did not go up at this time. Our</p> <p>25 spokesman was Chris Davis and he is the EA for</p>	<p style="text-align: right;">Page 72</p> <p>1 towards the EA model more and more. And I think at last</p> <p>2 count, we had like 112 counties now had EAs, 110, 112</p> <p>3 where it is under one office.</p> <p>4 Q. Who appointed you for Bexar County?</p> <p>5 A. I with appointed by what is known as the</p> <p>6 Election Commission. That is for everyone in the State</p> <p>7 of Texas. It is a five member board. It is the county</p> <p>8 judge, it is the country clerk and the tax assessor, the</p> <p>9 two people who would have to give up elections or voter</p> <p>10 registration, and the chair of the Democratic and</p> <p>11 Republican party. Those five members. And it is three</p> <p>12 to hire and four to fire.</p> <p>13 Q. What is the term for that appointment?</p> <p>14 A. Until they fire you or you retire or resign.</p> <p>15 Basically, it is when, you know, we are all one bad</p> <p>16 election away from not being there anymore in reality.</p> <p>17 Q. So of what you know of SB-1, what do you think</p> <p>18 the purpose of the bill was when the legislature passed</p> <p>19 it?</p> <p>20 MS. CUBRIEL: Objection, form.</p> <p>21 THE WITNESS: I know it spoke to the</p> <p>22 integrity and voter fraud. I think that was the basis</p> <p>23 of it. You know, I think, you know, it has all of the</p> <p>24 pieces from voter registration through the by-mail</p> <p>25 process.</p>
<p style="text-align: right;">Page 71</p> <p>1 Williamson County. So he was the closest so he got</p> <p>2 nominated. He could get there a lot faster than a bunch</p> <p>3 of us.</p> <p>4 Q. So the testimony he gave at the hearings would</p> <p>5 have been on behalf of the Texas Association of Election</p> <p>6 Administrators?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So he wasn't testifying just as Williamson</p> <p>9 County; correct?</p> <p>10 A. Correct. He may have at other times. But</p> <p>11 yeah, normally, he was -- he carried our voice.</p> <p>12 Q. And can you just kind of give me an overview of</p> <p>13 what this association does on an on-going basis, the</p> <p>14 Texas Association of Election Administrators?</p> <p>15 A. We are a group, again, Jeff, I don't want to</p> <p>16 belabor the point. But you know, Texas has 254</p> <p>17 counties. And in Texas, elections can be run by three</p> <p>18 different models where the county clerk does the</p> <p>19 election side of the house, the tax assessor does the</p> <p>20 voter registration side of the house. And depending on</p> <p>21 the county, either one of those can handle elections.</p> <p>22 Then the third model is the elections</p> <p>23 administrator. We are non-partisan appointed officials</p> <p>24 and we have both hats under one office which makes it</p> <p>25 much more efficient. And Texas has been, again, going</p>	<p style="text-align: right;">Page 73</p> <p>1 Again, early voting, election day, the</p> <p>2 poll watchers, the video cameras, the video. In the</p> <p>3 name of integrity, I think -- and I say I think -- I</p> <p>4 think SB-1 casts all of us that hold elections in a very</p> <p>5 bad way because it was like, look, we are coming in to</p> <p>6 protect everybody because this is what these terrible</p> <p>7 people do.</p> <p>8 Q. (By Mr. Jeff White) Do you think some of that</p> <p>9 was driven from what happened in Harris County in 2020?</p> <p>10 MS. CUBRIEL: Objection, form.</p> <p>11 THE WITNESS: I think so.</p> <p>12 Q. (By Mr. Jeff White) And you mentioned that you</p> <p>13 thought SB-1 may have been based on election integrity;</p> <p>14 correct?</p> <p>15 A. That is exactly what it says, yes, sir.</p> <p>16 Q. And the prevention of fraud?</p> <p>17 A. Yes, sir.</p> <p>18 Q. What about uniformity in elections?</p> <p>19 A. Again, I can't -- I can't speak to that because</p> <p>20 in all of my years, we all have our procedures and our</p> <p>21 codes and everything set by the Secretary of State. I</p> <p>22 mean as I said, we all go to, you know, an election law</p> <p>23 seminar once a year and everybody has the same programs,</p> <p>24 the same guides, the same procedures. So that</p> <p>25 doesn't -- that doesn't work.</p>

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<p style="text-align: right;">Page 74</p> <p>1 Q. So on the issue of preventing fraud, do you 2 believe election fraud has occurred in Texas in past 3 elections? 4 MS. CUBRIEL: Objection, form. 5 THE WITNESS: Anecdotal, yes. 6 Q. (By Mr. Jeff White) What types of election 7 fraud have you heard about? 8 A. Again, mail ballot. I mean that seems to be 9 the catch all. 10 Q. And how would this fraud occur with the use of 11 mail ballots? 12 A. This is where I am going to go down another 13 path. Again, historically, our voters fill out that 14 mail ballot application and they sign it. And we -- and 15 that signature on the application must match the 16 signature on the return ballot. And the early ballot 17 board determines that. 18 Now just like today, technology is our 19 friend. So in the larger counties, when we get the 20 application in, we scan it. We scan it right then and 21 there and we clip the signature. Then when the mail 22 ballot comes back in, we scan both sides of the mail 23 ballot and we clip that signature. 24 And then we have a program that when it is 25 time to accept, when the early ballot board is doing</p>	<p style="text-align: right;">Page 76</p> <p>1 citizens, much like myself with arthritis, my signature 2 may not look the same in the morning as it looks in the 3 afternoon or it looks in the evening. So it gives the 4 benefit of the doubt. It allows them to get more 5 information and to check the signatures. 6 Well, now SB-1 says let's use numbers 7 instead of signatures. So they are asking for Texas 8 driver's license or their election ID card or the last 9 four of their SSN. And where the breakdown came this 10 time for SB-1 -- and you have heard me say we didn't 11 have enough time to implement it. 12 When you look in our database, our 13 database, who can get ballots by mail? Anyone over 65. 14 Well, anyone over 65, a lot of times, myself included, 15 registered 40 years ago. When you register 40 years 16 ago, nobody asked you for your Texas driver's license 17 number. Nobody asked you for the last four of your SSN. 18 So now SB-1 comes. And once we get them 19 the right application because they have sent in the 20 wrong one, then they have to put in driver's license or 21 SSN. We get it back, we have nothing to match it 22 against. It is not there. They never gave it to us. 23 So now we have to reach out to them again and send them 24 a voter registration card because SB-1 doesn't allow us 25 to update those rules based on the ABBM.</p>
<p style="text-align: right;">Page 75</p> <p>1 their job, the program puts the application signature in 2 the mail ballot envelope signature one on top of the 3 other. And they decide sitting at a computer, Democrat 4 in one chair, Republican in another chair, and they 5 decide if that signature is substantially the same. 6 And as we have all moved forward with 7 this, numerous counties do it numerous ways. I mean 8 whether you are looking and matching, the Election Code 9 still speaks to a ballot -- a jacket envelope where you 10 keep both signatures, the physical signature. And the 11 person will sit at the table and just do this, you know, 12 to match the signatures to say okay, they look -- 13 But the system we have now makes a huge 14 responsibility because the people who are accepting 15 those signatures and accepting the mail ballots now sign 16 in so we actually know who accepted it. Which again, 17 great paper trail, great paper trail. 18 But the Election Code has grown over the 19 years to say well, maybe the signatures don't quite look 20 alike. But you can now go back and look at the last six 21 signatures. You can go back and look at the last six 22 signatures to see. And you can usually tell if there is 23 a letter or somebody signs, you know, the capital or 24 whatever. 25 But it is a recognition that our senior</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. So I just -- 2 A. Are you with me? Do you see -- do you see 3 where we are and why we are saying we needed such time 4 to do this? 5 Q. And I think we will get to this. I think we 6 may have gone down one of these rabbit holes so I kind 7 of want to step back a little bit. 8 A. Okay. I'm sorry. 9 Q. No, no need to apologize. We were talking 10 about history and some of the issues that SB-1 may have 11 been trying to address. And we were talking about 12 frauds in mail-in balloting. And I think they is where 13 we got down the trail of signature match and now 14 numerical match. 15 But what is the way that a mail-in ballot 16 could be used to fraudulently vote? 17 A. Again, the system was set up to only match the 18 signature of the application to the signature of the 19 ballot. And at that time, it would have been possible 20 for people to send in an application for a person who 21 they know does not vote regularly, has never voted and 22 they can sign the application, get the ballot, sign the 23 ballot and no one would be the wiser. 24 Q. What information other than the signature goes 25 on to the registration application when you submit it?</p>

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<p style="text-align: right;">Page 78</p> <p>1 A. Now it is those two numbers. Now we need 2 either the Texas driver's license number, election ID, 3 personal ID or the last four. 4 Q. Let me be more specific. Prior to SB-1 when 5 somebody wanted to register to vote, how do they do 6 that? 7 A. To register to vote. Okay. Again, 8 registration, different animal. That's -- NVRA has set 9 that up. We have a registration card that they must 10 fill out, postage paid free we do it. Texas also allows 11 DVRs, deputy voter registrars. They come in for 12 training. We train them for about an hour. They take a 13 test and then they are permitted to register people to 14 vote. They will be campaigns that will do that. League 15 of Women Voters is really good. High school principals 16 are to register the students. Registration cards are 17 out at the social services. They are out at the 18 libraries. They are readily available. 19 People can register to vote. And the day 20 we go to the card, time stamped in, you are registered 30 21 days after that. 22 Q. And is information on who is registered to vote 23 available to the public? 24 A. Yes. 25 Q. Now, if you -- prior to SB-1, if you are</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. And the names of registered voters were 2 publicly available? 3 A. Yes. 4 Q. Were the addresses of registered voters 5 publicly available? 6 A. Yes. 7 Q. So is it correct that in theory, somebody could 8 look at the publicly available information and identify 9 name, address and then all they would have left to do is 10 check a box and sign prior to SB-1? 11 A. Yes. 12 Q. Is information on registered voters who vote in 13 certain elections publicly available? 14 A. Yes. 15 Q. So from that publicly available information, 16 somebody could figure out whose registered but who 17 hasn't voted in a long time? 18 A. Yes. 19 Q. Is publicly -- strike that. Does publicly 20 available information let you know if a registered voter 21 has previously requested to vote by mail? 22 A. Yes, consultants can keep that database, our 23 information will tell you per voter. So the people that 24 request our information will give us an election. They 25 will say, you know, they would like to see all of the</p>
<p style="text-align: right;">Page 79</p> <p>1 applying for ballot by mail, what information goes on 2 that application prior to SB-1? 3 A. Name, address. There is a space to mail my 4 ballot to if you are not at home or in a nursing home or 5 going to be out of the county on that election day, that 6 you must check a reason. We have four reasons in Texas, 7 over 65, disabled, out of the county on election day. 8 And then, again, I am just being silly. But my favorite 9 one is confined in jail. And we see a whole lot of that 10 when the sheriff is on the ballot. But normally, not so 11 much. And those are the four reasons. 12 So they have to check a reason. And 13 obviously, if they check over 65, when we go to put 14 their application in, the computer is going to tell us 15 their age. And so mail my ballot to and they have to 16 sign it. And for this March election, Jeff, I mean they 17 had to pick a party. So if they want a party, they had 18 to mark that. If they did not mark a party, then we set 19 it aside and we put it in for the May election because a 20 lot of people don't vote in primaries as we all know. 21 Q. So prior to SB-1, for a registered voter to 22 submit an application for ballot by mail, they needed a 23 name, address, check a reason and then sign the 24 application; correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 81</p> <p>1 people who voted by mail in the Democratic or Republican 2 party for March 18, March 20th. And they get those 3 names. 4 Then, again, I am sure that all of the 5 consultants have large computer programs where they can 6 keep track of this election after election. 7 Q. Who are these consultants? Strike that. I am 8 not asking you to name every consultant. But do you 9 know who employs these consultants that request this 10 voter information? 11 A. Sure. Candidates or -- what do we call them -- 12 packs, you know, like bond, if they are running a bond, 13 they go to -- like right now, the attorneys are the ones 14 that are in charge of the bonds. And so they go to them 15 and get that information. 16 Q. Okay. So now SB-1 is in effect. And when a 17 voter wants to request an application to vote my mail, 18 what new information do they have to provide? 19 A. Again, now they must provide either their Texas 20 driver's license, their personal ID, their election ID 21 or the last four of their social. 22 Q. Is there a third option if somebody doesn't 23 have either of those two numbers? 24 A. There is -- they can check that they do not 25 have one. But then that takes another set of documents</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q. If they want to change that Election Code to</p> <p>2 prevent fraud, do you think they have to actually have</p> <p>3 proof of actual fraud before they do that or is trying</p> <p>4 to prevent it okay?</p> <p>5 MS. CUBRIEL: Objection, form.</p> <p>6 THE WITNESS: I don't know how to answer</p> <p>7 that.</p> <p>8 Q. (By Mr. Jeff White) But you would you agree the</p> <p>9 legislature, it is their purview to modify the Election</p> <p>10 Code?</p> <p>11 A. Correct.</p> <p>12 Q. I believe you said that in the climate we are</p> <p>13 in now, you are getting a lot of reports of suspected</p> <p>14 fraud; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And if people think fraud is occurring, does</p> <p>17 that affect their competence in the elections</p> <p>18 themselves?</p> <p>19 MS. CUBRIEL: Objection, form.</p> <p>20 THE WITNESS: That is what it feels like.</p> <p>21 Q. (By Mr. Jeff White) So if people think fraud is</p> <p>22 occurring and have lower confidence in the elections, do</p> <p>23 you think putting in additional procedures to try to</p> <p>24 prevent fraud, conserve to improve the competence of the</p> <p>25 voters?</p>	<p style="text-align: right;">Page 100</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. JEFF WHITE: We can take a quick break</p> <p>3 now.</p> <p>4 VIDEOGRAPHER: The time is 11:42 a.m. We</p> <p>5 are off the record.</p> <p>6 (Recess taken)</p> <p>7 VIDEOGRAPHER: The time is 12:00 p.m. and</p> <p>8 we are back on the record.</p> <p>9 Q. (By Mr. Jeff White) Ms. Callanen, Jackie, I</p> <p>10 just wanted to quickly talk about -- we had previously</p> <p>11 talked about some of the improvements in SB-1. And</p> <p>12 there was one topic I wanted to ask you about that I</p> <p>13 don't think came up. Didn't SB-1 extend early voting</p> <p>14 hours?</p> <p>15 A. Excuse me. Yes, it did. It is up until I</p> <p>16 think 10:00 o'clock but here in Bexar County. I mean</p> <p>17 like I didn't -- I don't want to say I dismissed that</p> <p>18 part but we have always been ahead of the curve. We</p> <p>19 have always had our 10 hour days and our 12 hour days so</p> <p>20 I sort of skipped that part of it.</p> <p>21 Q. Are you aware that it also extended mandatory</p> <p>22 hours for early voting to smaller counties?</p> <p>23 A. Yes.</p> <p>24 Q. And do you view that as an improvement in SB-1?</p> <p>25 A. I would say so.</p>
<p style="text-align: right;">Page 99</p> <p>1 MS. CUBRIEL: Objection, form.</p> <p>2 THE WITNESS: If it is done in a timely</p> <p>3 manner.</p> <p>4 Q. (By Mr. Jeff White) And following up on that --</p> <p>5 strike that. You don't think SB-1 making changes to a</p> <p>6 large 2022 primary was enough time for you to implement;</p> <p>7 is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. If SB-1 had allotted Bexar County more time to</p> <p>10 implement it before it went into effect for an election,</p> <p>11 could it have been done better?</p> <p>12 A. Yes.</p> <p>13 Q. And do you think that because you didn't have a</p> <p>14 lot of time, that there were issues?</p> <p>15 A. Yes.</p> <p>16 Q. And the issues created by that lag of time did</p> <p>17 not create confidence; is that correct?</p> <p>18 A. Correct.</p> <p>19 MS. CUBRIEL: When you get to a good</p> <p>20 stopping point, I think it would be a good time for</p> <p>21 another break.</p> <p>22 Q. (By Mr. Jeff White) Okay. But if you had more</p> <p>23 time to implement SB-1, do you think it could have been</p> <p>24 more effective at improving voter confidence?</p> <p>25 MS. CUBRIEL: Objection, form.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And are you aware of the provision in SB-1 --</p> <p>2 strike that. Prior to SB-1, are you aware that the</p> <p>3 Election Code protected workers who needed time off from</p> <p>4 work on election day?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And are you aware of SB-1 changing that</p> <p>7 provision?</p> <p>8 A. I think it -- yes, yes, because I think it</p> <p>9 extended it now to early voting. They could have the</p> <p>10 time off during early voting. Prior to that, I think it</p> <p>11 was just election day.</p> <p>12 Q. Would you view that as something that made it</p> <p>13 easier to vote?</p> <p>14 A. Yes and no. I mean I am split on that because</p> <p>15 I believe with our 10 hours a day and with our weekend</p> <p>16 availability, that there would be enough time for</p> <p>17 someone to go.</p> <p>18 Q. So what you are saying is that the early voting</p> <p>19 hours that you offer in Bexar County make it pretty easy</p> <p>20 for someone to vote if they want to during the early</p> <p>21 period?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So we briefly touched on this issue of how you</p> <p>24 got ready, maybe not briefly, how you have been</p> <p>25 implementing the changes in SB-1. And I just kind of</p>

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<p style="text-align: right;">Page 102</p> <p>1 wanted to step back and kind of talk a little bit more 2 about the training that you had to do to implement it. 3 So we may have talked about this before. But what 4 training did you receive from the Secretary of State's 5 office? 6 A. I think we had webinars available to us and 7 some advisories that would come down. 8 Q. And did they -- strike that. Did the Secretary 9 of State's office cover all of the changes in SB-1 that 10 were relevant to you as Bexar County administrator? 11 A. I would say yes, but again, with reservations. 12 Q. What are the reservations? 13 A. There were so many thing ins SB-1. There were 14 so many pieces and parts to it that I am sure we haven't 15 discovered everything yet. 16 Q. So on your own end for the county, I think you 17 said that you had to do your own training; correct? 18 A. Correct. 19 Q. And who did you have to train? 20 A. Well, we have internal staff we have to train 21 and then our 1200 workers that we have to train so it is 22 an on-going thing. The temps that come in have to have 23 training so it is quite, quite a lot. 24 Q. And what changes in SB-1 were the hardest to 25 train them to implement?</p>	<p style="text-align: right;">Page 104</p> <p>1 you have to stop and then you have to restart. Well, 2 that sounds fine. But now, all of a sudden, I have a 3 staff member and we have to get a special computer that 4 we had to hurry up and buy so that they could go online 5 and stop and start it. And so it just was an added 6 burden to these people whether, you know, it is like oh, 7 my God, I forgot, setting alarms, handing off the 8 computer so see who could do it because one person 9 wasn't going to step up til midnight each night. 10 However, it was just a complication. 11 Q. And when you implemented these processes, are 12 they documented in written form? 13 A. The instructions on the YouTube is yes. 14 Q. What about for other changes in SB-1, do you 15 have procedure documents that kind of -- 16 A. Incomplete ones, incomplete ones. We had 17 fantastic -- really proud of the documentations. But 18 because of all of the changes and as we have learned 19 through time, that when you set a process up, you have 20 to live a process before you can document a process 21 because what looks good on paper may not work in 22 reality. And so we are still at that point right now 23 because we just came off of the March election. 24 Q. So are these procedural documents that are 25 maintained at your office on the computer?</p>
<p style="text-align: right;">Page 103</p> <p>1 A. The by-mail process definitely. 2 Q. And why is that? 3 A. Again, as we have talked about, with the number 4 of rejections that we had and the number of steps we had 5 to take so that we could handle our by-mail voters and 6 the actions in the time that we normally handled them. 7 So it put a push to it. 8 Q. And in addition to training, did you have to 9 implement new processes and procedures? 10 A. Absolutely. 11 Q. So what kind of processes and procedures do you 12 maintain as election administrator? 13 A. I would say pick one. The one we had to -- and 14 I think I alluded to it earlier -- was that with the -- 15 the necessity to have parts of our office under 24 hour 16 video surveillance, that was quite a last minute, I mean 17 again, emergency kind of thing. As I said before, the 18 wheels of county government go very slowly. 19 And we were still living with it because 20 not only did the video 24 hours a day, seven days a week 21 streaming -- and I can't believe I am saying this -- but 22 the only way we did it was to have it up on YouTube. 23 And unbeknownst to myself, as we were getting into the 24 planning stages and with my technical support people, 25 YouTube only allows you to stream for 12 hours and then</p>	<p style="text-align: right;">Page 105</p> <p>1 A. Yes, sir. 2 Q. And you are those based on what happened in 3 March 2022? 4 A. We are now, yes, sir. 5 Q. And so in addition to SB-1, at the same time, 6 we just had restricting in Texas. How does that impact 7 your ability to implement in changes in SB-1? 8 A. The restricting came down so late we all know. 9 And I think just, you know, as we have been sitting here 10 just all of us talking about what had happened and the 11 pandemic and how it changed our lives and, you know, it 12 was easy to sit at home and say and hear on the news 13 that there were supply chain problems. There were 14 supply chain problems. It hit us really hard. 15 The redistricting came along and it was 16 months later than normal. As you heard me say before, 17 we always sent our cards out November 15th to 18 December 15th every odd year. And this year, we were 19 all still in the throws of redistricting when it was 20 time to mail out our cards. So now we have the perfect 21 storm because we are changing districts, we are changing 22 voter registration cards. We need to get our voter 23 registration cards in the hands of our voters who are 24 going to vote in the primary. And we all ran up against 25 a wall that there was absolutely no blue paper to</p>

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<p style="text-align: right;">Page 106</p> <p>1 vote -- to print our voter registration cards, our 2 1,194,000 voter registration cards. 3 And it makes you crazy when you have it 4 ready and you call and we don't have the paper yet, we 5 don't have the paper yet, we don't have the paper yet. 6 And now we are into January, January 15th, we don't have 7 the paper yet. 8 And then one day, you get this call and 9 you have this bright spot that your vendor says, we know 10 the paper is in a warehouse in New Jersey. Our blue 11 paper was printed -- was made in Slovakia. So it is on 12 a boat from Slovakia and it is now in a warehouse in New 13 Jersey. And so now we are waiting for our paper to get 14 to San Antonio. That is where our vendor is. And we 15 wait and we wait and we wait. 16 So our voter registration cards were 17 mailed out the first week of February, which as you can 18 imagine, was the perfect storm. Because now we are in 19 the throws of SB-1 with rejecting applications. People 20 were getting their new cards. They are calling to tell 21 us like we had the discussion before, that I got this 22 card, these people don't live here. So just for a 23 management situation, it was the perfect storm. 24 But the voters had their cards in time to 25 vote in the registration, you know, the primary with</p>	<p style="text-align: right;">Page 108</p> <p>1 that were on their ballot. They had always been in this 2 district and why did we sent them a ballot with this 3 name on it, that we were wrong. So we had to finesse 4 that and explain to them that yes, the census was -- 5 because of the pandemic, the census wasn't done in a 6 timely fashion, restricting wasn't done in a timely 7 fashion, and so on and so forth. 8 Q. So I think I understand. So when they request 9 a mail-in ballot, it doesn't matter what is on the 10 ballot at that time; is that correct? Strike that. 11 Is it correct to say that a voter can 12 request to receive a mail-in ballot before the 13 redistricting process is complete? 14 A. Yes, sure, depending on whenever. I mean in 15 2010 I think it was, it took years for us to get through 16 the legal parameters. 17 Q. But when they ask for they mail-in ballot, they 18 are not specifying what ballot that they want to return; 19 is that correct? 20 A. Correct. 21 Q. So if the restricting boundaries changed after 22 they send in the request, when it is time to send them 23 the ballot, you send them the correct ballot? 24 A. We send them the correct one, yes, sir. 25 Q. So is that how these were on separate tracks</p>
<p style="text-align: right;">Page 107</p> <p>1 their registration cards. We are still working through 2 the return voter registration cards and sending out the 3 confirmation cards, getting all of that done. 4 And again, when redistricting occurs, Nina 5 and I can smile because we have been down this road -- I 6 think this will be our third one which was very nice. 7 But a lot of the voters have no idea that their district 8 has been moved. And so they go to the polls in the 9 primary and then they are fighting with our election 10 judges because they know that they vote in this district 11 and why are they giving them this ballot and they are 12 given them the wrong ballot. It just sort of snowballs. 13 Q. So did the restricting effort, did that -- 14 strike that. Was your ability to send out these 15 registration cards to voters in February, did that 16 impact the time available for those voters to request 17 mail-in ballots? 18 A. No, it was on a different track. It was on a 19 collision course but it did not affect them. 20 Q. Why did it not affect that? 21 A. Like again, they are separate processes. The 22 difference -- and when I said it was a perfect storm is 23 when some of our voters received their ballot at home, 24 after we had got through the process, then they were 25 calling because they were unfamiliar with the people</p>	<p style="text-align: right;">Page 109</p> <p>1 and they weren't affected by this delay of blue paper? 2 A. Correct. 3 Q. Do you know if some voters rely on receiving 4 the registration card before they ask for a mail-in 5 ballot? 6 A. Absolutely. 7 Q. So for those voters, would getting that late 8 have made them apply for the mail-in ballot late? 9 A. No. Well, because when they called and said 10 where is my registration card, you know, then we had to 11 explain to them this and this and this. So no, they 12 knew the had to get their applications in. 13 Q. What was the deadline for requesting a mail-in 14 ballot for the March primary? 15 A. February 18th. 16 Q. So if they were waiting for that card to do it, 17 they would have missed out; correct? 18 A. Correct. 19 Q. So these individuals who didn't get the card, 20 you said some of them called in to ask you why? 21 A. Yes. 22 Q. So would those individuals have applied for the 23 mail-in ballot later than usual? 24 A. No. Again, I don't -- I don't -- when they 25 called, we were speaking to them and telling them to get</p>

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<p style="text-align: right;">Page 114</p> <p>1 come back in and vote. It is what we do.</p> <p>2 Q. So you are planning to update your processes</p> <p>3 based on lessons learned from March; correct?</p> <p>4 A. That's right, and that is my phrase, lessons</p> <p>5 learned.</p> <p>6 Q. Are you planning to do more voter outreach?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you see a lot of issues caused by voters</p> <p>9 not being familiar with the new requirements?</p> <p>10 A. Yes, sir.</p> <p>11 Q. So is the hope that this new outreach will get</p> <p>12 over some of these issues?</p> <p>13 A. Well, yes, sir. And I mean, again, we -- for</p> <p>14 the March election, the primary that we just came</p> <p>15 through, we had 23,339 applications come into our</p> <p>16 office, 23,339. When it was all said and done, we</p> <p>17 counted 14,180 ballots.</p> <p>18 Now, that looks like there is a big chunk</p> <p>19 that did not come in. But we always have a drop off</p> <p>20 from the people who decide to vote in person. We have a</p> <p>21 drop off for the people that look at the ballot and say</p> <p>22 oh, there is nobody on here I want to vote for and they</p> <p>23 never sent it back in. But we did have a larger than</p> <p>24 normal drop off on this one.</p> <p>25 But for us and as we talk in the office,</p>	<p style="text-align: right;">Page 116</p> <p>1 the changes the carrier envelope, are you familiar with</p> <p>2 that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. So just to recap, what is the new requirement</p> <p>5 in SB-1 for mail ballot applications?</p> <p>6 A. They have the addition on the application for</p> <p>7 the voter to write down either their TDL, Texas driver's</p> <p>8 license. It can be their personal ID. It can be their</p> <p>9 election ID. But basically, it is the number have</p> <p>10 received from any document they have received from DPS.</p> <p>11 Then if they don't have one of those, they may give us</p> <p>12 the last four of their social. And barring neither of</p> <p>13 those, they can check the box that says I have neither</p> <p>14 of these.</p> <p>15 Q. And then when those applications come in, are</p> <p>16 you required to verify those numbers?</p> <p>17 A. Absolutely, against what is on their voter</p> <p>18 registration record.</p> <p>19 Q. And where is that record that you are checking</p> <p>20 the application against, where is that maintained?</p> <p>21 A. In our office.</p> <p>22 Q. So I understand that different counties have</p> <p>23 different registration record systems; is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. And I have heard of online and offline</p>
<p style="text-align: right;">Page 115</p> <p>1 it is sort of like a win-win because we now have 14,180</p> <p>2 people that know how to do it and they are going to be</p> <p>3 our ambassadors as we go forward.</p> <p>4 So you know, it is -- again, it is sort of</p> <p>5 like baby steps. Like I told you, it is the lessons</p> <p>6 learned. So we will move forward from that. So we know</p> <p>7 at this next election, we have almost 15,000 people now</p> <p>8 that will get their mail ballot, do what they have to do</p> <p>9 and get it back without a problem. And it is going to</p> <p>10 be up to us for all of the people that we notified on</p> <p>11 the rejections, whether we did it by phone or email or</p> <p>12 sent them letters, those 23,000 people have some inkling</p> <p>13 of what is going on.</p> <p>14 Q. So if you were assessing whether the changes in</p> <p>15 SB-1 make it more difficult, apart from these education</p> <p>16 and training issues, would you agree it would be a more</p> <p>17 fair assessment if you did it two years down the road</p> <p>18 after you had had time to go through it?</p> <p>19 A. Absolutely.</p> <p>20 Q. So now I want to go into some of the changes in</p> <p>21 SB-1. And since we have I think talked about it the</p> <p>22 most, I think I will start with the changes to the</p> <p>23 application for ballot by mail.</p> <p>24 A. Okay.</p> <p>25 Q. And then when the voters submit the ballot. So</p>	<p style="text-align: right;">Page 117</p> <p>1 counties. Can you explain what that is?</p> <p>2 A. Very good, terrific. That is what we talked</p> <p>3 about a little bit ago. On the TEAM system, the 254</p> <p>4 counties were all to use that system in real time</p> <p>5 meaning that we took the application, you were on their</p> <p>6 system and you put it directly into that database. And</p> <p>7 they discovered that, again, it is either somewhere</p> <p>8 between 15 or 30 counties, I am not sure how many, the</p> <p>9 big boys, that number fluctuates and we had to go get an</p> <p>10 outside vendor. So we do our work in-house so we are</p> <p>11 called offline counties. And those offline counties</p> <p>12 have 75 percent of the registered voters. So the other</p> <p>13 counties obviously are much smaller and they use it in</p> <p>14 real time.</p> <p>15 Again, we have a delay just like I</p> <p>16 explained where I have a person that wraps up the work</p> <p>17 product of the day and sends it up to the Secretary of</p> <p>18 State's office. It is a TEAM system.</p> <p>19 Q. So your offline system, is it linked to the</p> <p>20 statewide TEAM system?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you get any updates from the state that you</p> <p>23 have to load into your offline system?</p> <p>24 A. It goes through our vendor first and then it is</p> <p>25 loaded. So they have to make sure that everything</p>

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Pages 138 to 141

<p style="text-align: right;">Page 138</p> <p>1 get a lot smarter because, you know, a lot of people</p> <p>2 want the metrics on this and understandably so.</p> <p>3 Q. Is that one of the lessons learned from this</p> <p>4 election?</p> <p>5 A. It certainly is.</p> <p>6 Q. So if we are now only -- strike that. So if</p> <p>7 somebody is just looking at the rate of rejection for</p> <p>8 applications for by mail in Bexar County, that is going</p> <p>9 to be inflated because of this change in form issue;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. So now if we are just looking at people who</p> <p>13 send in the updated form, can you explain what issues</p> <p>14 you were seeing there that might have led to rejection?</p> <p>15 A. Again, it was -- they were sending them in.</p> <p>16 They were either sending in the opposite number from</p> <p>17 what we had on file or they were sending it in and we</p> <p>18 had no number on file. So again, like I said, I think</p> <p>19 and I know and I feel that we got smarter. Because as</p> <p>20 we started to send out the new application, after the</p> <p>21 original one was rejected, we started to put voter</p> <p>22 registration cards in there.</p> <p>23 Q. And why did you do that?</p> <p>24 A. Again, so that the voter could give us updated</p> <p>25 information.</p>	<p style="text-align: right;">Page 140</p> <p>1 down on the application provided by mail?</p> <p>2 A. Absolutely.</p> <p>3 Q. Do you have any idea why they didn't complete</p> <p>4 that part of the form?</p> <p>5 MS. CUBRIEL: Objection, form.</p> <p>6 THE WITNESS: Well, again, I can only</p> <p>7 speak anecdotally. They were the people that were so</p> <p>8 very very concerned about identity theft.</p> <p>9 Q. (By Mr. Jeff White) And what is your basis for</p> <p>10 thinking that it was an identify theft issue?</p> <p>11 A. They would tell us.</p> <p>12 Q. When would they tell you?</p> <p>13 A. When they, again, SB-1 said we can contact them</p> <p>14 by telephone.</p> <p>15 Q. Is there any chance that they just didn't read</p> <p>16 the instructions?</p> <p>17 A. Probably.</p> <p>18 Q. Did you hear anything like that when you were</p> <p>19 contacting them that they hadn't read it?</p> <p>20 A. No, no. Because I mean, we, again, I don't</p> <p>21 want to say jokingly but we say, you know, that they</p> <p>22 don't read. You have seen the carrier envelope and the</p> <p>23 font on it is ridiculously small. And it has so much</p> <p>24 legal ease on it, that I don't think many of the voters</p> <p>25 read it. I really don't.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. And was that your idea to do that?</p> <p>2 A. (Nods head up and down.)</p> <p>3 MS. CUBRIEL: Can you say yes or no?</p> <p>4 THE WITNESS: Yes. I'm sorry.</p> <p>5 Q. (By Mr. Jeff White) So it was your idea to send</p> <p>6 out registration cards when you sent the new forms to</p> <p>7 people that had sent in the wrong forms?</p> <p>8 A. Yes, anything we could do to try to mitigate</p> <p>9 this.</p> <p>10 Q. Would those be more lessons that you will apply</p> <p>11 in the future?</p> <p>12 A. Absolutely.</p> <p>13 Q. So you said when people submitted the correct</p> <p>14 form, that you were seeing either a number that wasn't</p> <p>15 in your system, the opposite number; correct?</p> <p>16 A. Correct.</p> <p>17 Q. Or they would put a number down on the</p> <p>18 application that you didn't have on file; correct?</p> <p>19 A. Yes.</p> <p>20 Q. So you wouldn't have had it on file in the</p> <p>21 offline and wouldn't check TEAM. It wasn't there</p> <p>22 either; correct?</p> <p>23 A. Right, in the beginning with -- we were not,</p> <p>24 yes, you are correct.</p> <p>25 Q. Did you have people that didn't put any number</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. This might be a joke. Are you going to send</p> <p>2 them a magnifying glass next time?</p> <p>3 A. We have talked about it.</p> <p>4 Q. So I think I characterized it as they didn't</p> <p>5 read the instructions. But is there a chance some of</p> <p>6 them couldn't read the instructions and therefore didn't</p> <p>7 put a number down on the application?</p> <p>8 A. Again, I am assuming that is the case because</p> <p>9 as I said, we have developed an insert that we are going</p> <p>10 to do for future elections that is a quarter of a page</p> <p>11 that has that exact space where it asks for the TDL or</p> <p>12 SSN blown up so that it covers that entire block with a</p> <p>13 red thing and a highlight here and they can actually see</p> <p>14 what that says. So we are going to put that quarter</p> <p>15 sheet in English on one side, Spanish in the other and</p> <p>16 stick it in every mail ballot that we send out.</p> <p>17 Q. So we have talked about your rejection rates,</p> <p>18 include people who sent the wrong form. And then we</p> <p>19 just talked about people who you couldn't match their</p> <p>20 numbers; correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And we talked about people who just didn't put</p> <p>23 anything down; correct?</p> <p>24 A. Correct.</p> <p>25 Q. Can you answer?</p>

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<p style="text-align: right;">Page 218</p> <p>1 Q. (By Mr. Jeff White) And when you are referring</p> <p>2 to your commissioners, you are referring to the Bexar</p> <p>3 County commissioners?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And is that part of the smart initiative that</p> <p>6 we talked about earlier?</p> <p>7 A. Yes, sir. Yes, sir.</p> <p>8 Q. And so the commissioners actually sent out</p> <p>9 ballots in November 2020; correct?</p> <p>10 A. Correct.</p> <p>11 Q. Would you agree that sending out applications</p> <p>12 for that --</p> <p>13 A. That was in 2020.</p> <p>14 Q. Okay. Let me restate my question. So in the</p> <p>15 November 2020 election, the commissioners in Bexar</p> <p>16 County sent out applications unsolicited to voters, not</p> <p>17 you?</p> <p>18 MS. CUBRIEL: Objection form.</p> <p>19 THE WITNESS: Correct.</p> <p>20 Q. (By Mr. Jeff White) Would you acknowledge that</p> <p>21 there is a difference between sending out applications</p> <p>22 for ballot by mail to everybody in the system</p> <p>23 unsolicited versus the scenario you brought up where a</p> <p>24 mother calls and asks for hers and her sons?</p> <p>25 A. I see those as two different things.</p>	<p style="text-align: right;">Page 220</p> <p>1 voter registration cards for people who had lived there</p> <p>2 previously or had been registered there previously. So</p> <p>3 that if that were the case, if we would send everyone in</p> <p>4 our database, then we would automatically send one to</p> <p>5 that same home to those same people who aren't there.</p> <p>6 Q. So sending out unsolicited applications for</p> <p>7 ballot by mail could put them in the hands of people who</p> <p>8 live in the home but aren't the person that is on the</p> <p>9 application?</p> <p>10 A. Correct.</p> <p>11 Q. And prior to SB-1, if you had the application,</p> <p>12 you could look up the information on it and fill it out</p> <p>13 theoretically from public records; correct?</p> <p>14 A. Correct, that is what campaigns do, yes.</p> <p>15 Q. So if -- strike that. The March 2022 primary</p> <p>16 is in the past now; correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Have you had a time to reflect on these</p> <p>19 experience?</p> <p>20 A. There is a difference between reflecting on it</p> <p>21 and doing the data mining. We still have not dug into</p> <p>22 any of the metrics and the deep dives that we need to</p> <p>23 do. And so that will be on-going. The reason we</p> <p>24 haven't done it is because as the primary was being</p> <p>25 held, we had just passed the filing deadline for the May</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. And how are they different?</p> <p>2 A. Well, I mean, again, one is a request and that</p> <p>3 is how we have always handled it, that someone can</p> <p>4 request. And it was at that point, we don't send out</p> <p>5 unsolicited cards.</p> <p>6 Q. And when you say cards, are you referring --</p> <p>7 A. The applications.</p> <p>8 Q. You send out cards. You are referring to the</p> <p>9 applications for ballot by mail?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And you have never in the past sent those out</p> <p>12 without somebody asking?</p> <p>13 A. Correct.</p> <p>14 Q. Are there any risks of fraud associated with</p> <p>15 sending out applications for ballot by mail when people</p> <p>16 don't ask for them?</p> <p>17 MS. CUBRIEL: Objection, form.</p> <p>18 THE WITNESS: There is a possibility, yes,</p> <p>19 sir.</p> <p>20 Q. (By Mr. Jeff White) And what is that risk?</p> <p>21 A. Well, again, I think maybe this morning, it</p> <p>22 seems like it is a long time ago. But when we talked</p> <p>23 about the voter registration cards going to homes. And</p> <p>24 occasionally, we would be notified that a homeowner or</p> <p>25 someone who lives in the home got application, got our</p>	<p style="text-align: right;">Page 221</p> <p>1 7th election so we had to -- our focus went to</p> <p>2 programming the May 7th election and then the May 24th.</p> <p>3 So it may be a while until we get to actually sit down</p> <p>4 and dig deep.</p> <p>5 Q. And is it your duty to report the voting</p> <p>6 history to the state after an election like the March</p> <p>7 primary?</p> <p>8 A. Absolutely, yes, sir.</p> <p>9 Q. And have you collected and reported that data?</p> <p>10 A. Yes, yes, that goes right away.</p> <p>11 Q. Do you know when you did that?</p> <p>12 A. We beat the deadline but I don't know when it</p> <p>13 was.</p> <p>14 Q. Is the deadline 30 days after the election?</p> <p>15 A. I think that is when you can make your last</p> <p>16 changes to it, yes.</p> <p>17 Q. And what does that history data -- what is</p> <p>18 recorded in that data that you reported to the state?</p> <p>19 A. Again, the voter registration number of the</p> <p>20 person, their name, their address, the year of their</p> <p>21 birth and the party that they voted in.</p> <p>22 Q. Does it tell you what method of voting they</p> <p>23 used?</p> <p>24 A. Yes.</p> <p>25 Q. Does it tell you what precinct they voted in?</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
§
§
§
§
§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX H

Jacquelyn Callanen

February 28, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)
ENTERO, ET AL.,)

Plaintiffs,)

vs.)

GREGORY W. ABBOTT, ET AL.,)

Defendants.)

Case No. 5:21-CV-844-XR

OCA-GREATER HOUSTON,)
ET AL.,)

Plaintiffs,)

vs.)

JANE NELSON, ET AL.,)

Defendants.)

Case No. 1:21-CV-780-XR

HOUSTON JUSTICE, ET AL.,)

Plaintiffs,)

vs.)

GREGORY WAYNE ABBOTT,)
ET AL.,)

Defendants.)

Case No. 5:21-CV-848-XR

LULAC TEXAS, ET AL.,)

Plaintiffs,)

vs.)

JANE NELSON, ET AL.,)

Defendants.)

Case No. 1:21-CV-0786-XR

MI FAMILIA VOTA, ET AL.,)

Jacquelyn Callanen

February 28, 2023

Pages 2 to 5

Page 2	Page 4
<p>1 Plaintiffs,)</p> <p>2)</p> <p>3) Case No. 5:21-CV-0920-XR</p> <p>4)</p> <p>5)</p> <p>6)</p> <p>7)</p> <p>8)</p> <p>9)</p> <p>10)</p> <p>11)</p> <p>12)</p> <p>13)</p> <p>14)</p> <p>15)</p> <p>16)</p> <p>17)</p> <p>18)</p> <p>19)</p> <p>20)</p> <p>21)</p> <p>22)</p> <p>23)</p> <p>24)</p> <p>25)</p> <p>*****</p> <p>ORAL AND VIDEOTAPED DEPOSITION OF</p> <p>JACQUELYN CALLANEN</p> <p>FEBRUARY 28, 2023</p> <p>*****</p> <p>THE ORAL AND VIDEOTAPED DEPOSITION of</p> <p>JACQUELYN CALLANEN, produced as a witness at the</p> <p>instance of the Defendant, and duly sworn, was taken</p> <p>in the above styled and numbered cause on Tuesday,</p> <p>the 28th day of February, 2023 from 9:10 a.m. to</p> <p>3:51 p.m., before PAMELA SUE PETERSON, Certified</p> <p>Shorthand Reporter in and for the State of Texas,</p> <p>reported by stenographic and computer-aided</p>	<p>1 APPEARANCES OF COUNSEL:</p> <p>2 For Plaintiff HOUSTON JUSTICE, HOUSTON AREA URBAN</p> <p>3 LEAGUE, DELTA SIGMA BETA SORORITY, INC., THE ARC OF</p> <p>4 TEXAS, MI FAMILIA VOTA, MARLA LOPEZ, MARLIN LOPEZ,</p> <p>5 PAUL RUTLEDGE, JEFFREY LAMAR CLEMENS:</p> <p>6 NAACP LEGAL DEFENSE FUND</p> <p>7 BY: VICTOR GENECIN, ESQUIRE</p> <p>8 40 Rector Street</p> <p>9 5th floor</p> <p>10 New York, New York 10006</p> <p>11 (929) 388-9246</p> <p>12 vgenecin@naacpldf.org</p> <p>13 For Defendant GREGORY W. ABBOTT AND JANE NELSON, ET</p> <p>14 AL:</p> <p>15 KEN PAXTON, ATTORNEY GENERAL OF TEXAS</p> <p>16 OFFICE OF THE ATTORNEY GENERAL</p> <p>17 BY: DAVID BRYANT, ESQUIRE</p> <p>18 KATHLEEN T. HUNKER, ESQUIRE (Via Zoom</p> <p>19 Videoconference)</p> <p>20 P.O. Box 12548</p> <p>21 Austin, Texas 78711-2548</p> <p>22 (512) 936-2275</p> <p>23 david.bryant@oag.texas.gov</p> <p>24 For Defendant UNITED STATES OF AMERICA:</p> <p>25 U.S. DEPARTMENT OF JUSTICE</p> <p>CIVIL RIGHTS DIVISION</p> <p>BY: DANA PAIKOWSKY, ESQUIRE</p> <p>Robert F. Kennedy Building</p> <p>950 Pennsylvania Avenue NW</p> <p>Washington, District of Columbia 20530</p> <p>(202) 353-5225</p> <p>dana.paikowsky@usdoj.gov</p>
Page 3	Page 5
<p>1 transcription, at the Office of the Texas Attorney</p> <p>2 General, Weston Centre, 112 East Pecan Street,</p> <p>3 3rd Floor, San Antonio, Texas 78205, pursuant to the</p> <p>4 Federal Rules of Civil Procedure and the provisions</p> <p>5 stated on the record or attached hereto.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES OF COUNSEL (Continued):</p> <p>2 For Witness JACQUELYN F. CALLANEN, CERA:</p> <p>3 JOE D. GONZALES, CRIMINAL DISTRICT ATTORNEY</p> <p>4 OFFICE OF BEXAR COUNTY CRIMINAL DISTRICT ATTORNEY</p> <p>5 BY: LISA V. CUBRIEL, ESQUIRE</p> <p>6 Paul Elizondo Tower</p> <p>7 101 West Nueva</p> <p>8 7th Floor</p> <p>9 San Antonio, Texas 78205-3030</p> <p>10 (210) 335-2142</p> <p>11 lisa.cubriel@bexar.org</p> <p>12 Also Present:</p> <p>13 JACQUELYN F. CALLANEN, CERA</p> <p>14 Witness</p> <p>15 JULIA R. LONGORIA (Via Zoom Videoconference)</p> <p>16 Mexican American Legal Defense and Educational</p> <p>17 Fund, Inc.</p> <p>18 CAROLINE LEBAL (Via Zoom Videoconference)</p> <p>19 NATALIE FELSEN (Via Zoom Videoconference)</p> <p>20 Cooley, LLP</p> <p>21 On behalf of El Paso County Elections</p> <p>22 Administrator Lisa Wise</p> <p>23 MARINA EISNER (Via Zoom Videoconference)</p> <p>24 States United Democracy Center</p> <p>25 LOUIS J. CAPOZZI (Via Zoom Videoconference)</p> <p>Jones Day</p> <p>On behalf of intervenors</p> <p>KEVIN ZHEN (Via Zoom Videoconference)</p> <p>Fried, Frank, Harris, Shriver & Jacobson, LLP</p> <p>On behalf of LUPE Plaintiffs</p> <p>JOSEPHINE RAMIREZ SOLIS (Via Zoom Videoconference)</p> <p>Office of Criminal District Attorney</p> <p>Hidalgo County</p> <p>On behalf of Hidalgo County Elections</p> <p>Administrator</p> <p>GABE HODGE (Via Zoom Videoconference)</p> <p>Observer</p>

Jacquelyn Callanen

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<p style="text-align: right;">Page 38</p> <p>1 other site, sir. We have a fantastic relationship 2 with the City of San Antonio. And so, when they open 3 a library, a public library, we're there. 4 Well, a few years ago the City of 5 San Antonio passed a bond election. And the bond 6 election was for remodeling of their libraries. And 7 so, we had issues -- I hate that word. We had issues 8 with one of their time schedules on their library. 9 We were to be able to be moved back into Memorial 10 Library. And due to supply chain issues, they didn't 11 open. They -- they didn't complete their work in 12 time. 13 So at the last minute, where we thought we 14 would be at Memorial Library, we had to go back to 15 our alternate site of West Point. So, it's issues 16 like that that we just take it right up to the wall 17 because we -- we -- the voters know to go to Memorial 18 Library. So, we had to post a big sign and move them 19 on. 20 Q. Did you become aware of any complaints in 21 connection with the general election in November of 22 2022 regarding the number or distribution of polling 23 places or vote centers? 24 A. Yes, sir. 25 Q. Could you describe what you became aware</p>	<p style="text-align: right;">Page 40</p> <p>1 you pull up and you go in and you're right in the 2 foyer, we're going to put you back around into the 3 gymnasium or we're going to allow you to have access 4 to the library. 5 So, that complied with it, so we have the 6 voting site there. But what we ended up finding out 7 was, for a lot of our senior citizens and a lot of 8 our ADA, the longer walk then became problematic. 9 They did it, but then we took calls of they -- you 10 know, weren't -- why did we do it? Why did we move 11 it there? And so, again, lessons learned. 12 So, you know, we went back and have worked 13 with the school districts. And so, with the 14 legislative session up there now, we are hoping and 15 praying that they will mandate that election day is a 16 school holiday or an in-service day because there 17 shouldn't be that angst. 18 Q. Are you aware of anyone who was unable to 19 vote or was dissuaded from voting on election day in 20 November of 2022 in Bexar County because of the issue 21 that you just described? 22 A. No. 23 Q. Okay. Let's talk about mail-in ballots. 24 A. Uh-huh. 25 Q. Have there been procedure changes since the</p>
<p style="text-align: right;">Page 39</p> <p>1 of? 2 A. I'm -- I'm respectful of the fact, and we 3 have to keep ever most in our mind, that on May 24th 4 we had the shooting in Uvalde. And so here in Bexar 5 County, 68 percent of our poll sites are in schools, 6 and the schools didn't want us. They -- after -- 7 after the Uvalde, you know, the horrendous shooting 8 over there, they didn't want the elections to be 9 on-site when the students were there. 10 So, we met with Region 20, which is our -- 11 all of our school districts, and we had some great 12 leadership. We have 13 different school districts in 13 Bexar County, and we had great leadership from some 14 of ours, and they chose to make election day an 15 in-service day so there would not be students. So, 16 for a portion of our normal sites we were -- 17 everything was fine. 18 But for the school districts that chose not 19 to make it an in-service day, the students were 20 there. And so, what happened in a few of our sites 21 is, now we're trying make amends. You know, they -- 22 they want to keep the students safe. We need to say, 23 and of course, they can't refuse us if we ask them. 24 And so, the accommodation was, okay, 25 instead of putting you in the foyer where, you know,</p>	<p style="text-align: right;">Page 41</p> <p>1 primaries in the first half of 2022 with respect to 2 mail-in ballots in Bexar County that were in place in 3 connection with the general election in November of 4 2022? 5 A. Huge changes. 6 Q. Okay. Could you generally describe those. 7 A. SB-1 when it was first rolled out, 8 obviously, for the primary, came very late into our 9 world. And I had just said the supply chain issue. 10 We -- SB-1 mandated that we needed all new election 11 envelopes and all -- everything new because of the 12 requirement and the language and -- and the ID and 13 the ID requirements and the perf lines on them. 14 And so, we -- we managed to get -- we got 15 them at the 11th hour, but we did it and it caused us 16 stress and the voters were anxious because their 17 ballots weren't getting there. 18 So -- and we had a number of our voters in 19 March and -- and May that their ballots were 20 rejected, the applications were rejected, because 21 SB-1 required either the TDL or the SSN. 22 And I would like to remind you that most of 23 our voters by mail are senior citizens who registered 24 years and years ago when it was not required to give 25 either an SSN or a TDL.</p>

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<p style="text-align: right;">Page 42</p> <p>1 So, the way the law was written is, the</p> <p>2 ABBM had to have one of those numbers and we had to</p> <p>3 match one of those numbers with the original voter</p> <p>4 registration card, well, we couldn't do it. We</p> <p>5 didn't have it. We didn't have it on record.</p> <p>6 And so then we would -- as we rejected it,</p> <p>7 we had to send them a new ABBM and a new voter</p> <p>8 registration card so that they could send it back and</p> <p>9 update their records.</p> <p>10 Well, as -- as you know, I mean, I'm not</p> <p>11 going to go back and beat a dead horse. But that</p> <p>12 procedure, because of the problematic rollout of it,</p> <p>13 was worked on and worked on and worked on, and the --</p> <p>14 the State was able to work with DPS somehow and we</p> <p>15 were able to get...</p> <p>16 I'm not technical, but they were able to</p> <p>17 take all of our voters and mash them against DPS and</p> <p>18 get the license numbers, or TDLs for a number of our</p> <p>19 voters. So, by the time we were into the May</p> <p>20 elections, we had a much more robust database. And</p> <p>21 so, we were able to make these matches much -- much,</p> <p>22 much better.</p> <p>23 And then there was a court case that the</p> <p>24 State lost that required the language on the</p> <p>25 envelopes that we had to be changed. Again, now</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what was the overall effect of</p> <p>3 the changes as you observed them in October and</p> <p>4 November of 2022 as compared to the previous -- the</p> <p>5 first half of 2022?</p> <p>6 A. I -- I'm proud to say that -- that the</p> <p>7 changes that we effected here in Bexar County we did</p> <p>8 a lot of it on our own from our media outreach, to --</p> <p>9 to -- I'll show you how we -- we developed an insert</p> <p>10 for the ballot. I mean, we did a lot of outreach on</p> <p>11 our own, and we had a much, much higher success rate</p> <p>12 in November. So, it was -- it was a huge relief.</p> <p>13 Q. And when you refer to a success rate, could</p> <p>14 you explain what you mean by that.</p> <p>15 A. Well, again, in -- in every -- in every</p> <p>16 election, in the mail balloting process, we'll send</p> <p>17 out -- I mean, let's just say on this one, like,</p> <p>18 we'll send out 40,000. And when it's time to</p> <p>19 actually count the mail ballots, you're down to</p> <p>20 30,000, 30-, 32,000.</p> <p>21 And to a layperson out there, they're like,</p> <p>22 where did the other ones go? Well, you sent out this</p> <p>23 many, why don't you have this many back? Well, human</p> <p>24 nature enters into it a lot.</p> <p>25 And about probably anywhere eight to</p>
<p style="text-align: right;">Page 43</p> <p>1 we're problematic. We have -- we have the old ones.</p> <p>2 And so, do we sit there with a Sharpie and black out</p> <p>3 all of these or do we order more?</p> <p>4 And so, again, I mean, we're not the only</p> <p>5 county that was doing this. I mean, everyone was,</p> <p>6 sort of, you know, really, really pushing it and it</p> <p>7 worked. I mean, we were -- we were able to do it.</p> <p>8 I think the blessing in all of this is that</p> <p>9 in 2022, which is, you know, the gubernatorial</p> <p>10 elections, those election have --</p> <p>11 Q. You're talking about the general elections?</p> <p>12 A. General elections from the primary, that</p> <p>13 whole year is much smaller than a presidential year.</p> <p>14 And so, you know, we had 40,000 mail ballots, mail</p> <p>15 ballot applications in 2022. Where in 2020, we had</p> <p>16 124,000. So, again, you can see that it was an</p> <p>17 economy of scale, and we were much -- it was much</p> <p>18 easier to manage the -- the economy of scale that we</p> <p>19 did. But it was -- it was strenuous.</p> <p>20 Q. Have you described all of the changes that</p> <p>21 occurred in the -- the mail-in ballot procedures</p> <p>22 between the primaries in the first half of 2022 and</p> <p>23 the procedures that were in place for the general</p> <p>24 election in November -- in October of 2022 in Bexar</p> <p>25 County?</p>	<p style="text-align: right;">Page 45</p> <p>1 10 percent of the people who get a mail ballot will</p> <p>2 return that mail ballot and go vote in person because</p> <p>3 they use that mail ballot as a sample ballot. We</p> <p>4 have issues with that because, obviously, the mail</p> <p>5 ballots cost a lot of money, time, you know, people.</p> <p>6 Anyhow, I won't go into all those details. So, we</p> <p>7 don't get those back.</p> <p>8 Then you have the ones that are mailed in</p> <p>9 that are rejected for obvious reasons. You know,</p> <p>10 they didn't sign it. They signed -- what we see in a</p> <p>11 number of things is, a husband and wife will each get</p> <p>12 their ballot, but when it comes back in to us, the</p> <p>13 husband has signed the wife's ballot and vice versa.</p> <p>14 And so, those have to go out and be rejected to come</p> <p>15 back so that we have the right signature with the</p> <p>16 right ballot.</p> <p>17 So, there's any number of reasons why this</p> <p>18 happens. And in any normal election, we're going to</p> <p>19 get a reject rate of three percent, four percent.</p> <p>20 That's normal for -- for any election for us. But</p> <p>21 when we did November 2022, with all of our extra</p> <p>22 attention to it, we had a 1.7. So we were, like,</p> <p>23 yes.</p> <p>24 Q. You had a 1.7?</p> <p>25 A. Rejection rate.</p>

<p style="text-align: right;">Page 50</p> <p>1 So, because we have that vendor, we use it 2 for our mail ballots. We use it for our early 3 voting. It's a wonderful system. And they have 4 codes that we can put in for no signature, no 5 matching TDL, SSN. And we -- we have those codes 6 that come out. 7 And so, we can differentiate if -- if 8 needed to exactly how many didn't sign it, you know, 9 how many -- the -- we're still working on -- working 10 with the vendor to update the codes so that we can 11 capture more of the information from SB-1 on the 12 cure, not cured, you know. 13 We sent it by, we called them on the phone 14 or that detail's not in our system yet, so it's not 15 mat- -- it doesn't match up -- the State doesn't have 16 it in their system. So, this is a work in progress. 17 We're all learning and it's only getting better. 18 But again, there are third-party vendors 19 involved in, I think they said -- I think I'll 20 probably be wrong, but I think they said there were 21 31 counties that were not on TEAM real time. That 22 may have changed, but don't hold me to that 31. 23 Q. Is the information that Bexar County 24 captures on its software regarding the specific 25 reasons a mail-in ballot is rejected provided to the</p>	<p style="text-align: right;">Page 52</p> <p>1 those. We have those. And again, it's human nature. 2 If we have time to correct it, if the voter has time 3 to correct it, they can do it. 4 Q. What was the rejection rate in Bexar County 5 for 2020, if you recall? 6 A. I don't have that exactly, but I know it's 7 going to be in the three to four percent range. 8 Q. Okay. 9 A. I mean, that -- that was like our happy 10 zone. 11 Q. What was your -- well, explain to me what 12 you mean by the "happy zone." 13 A. Again, if one person doesn't get to vote, 14 that hits us. I mean, that's what we do. But if 15 you've gone through and you've had, you know, 124,000 16 ballots mailed out and -- and you've counted 92,000 17 and these others have been, you know, brought back to 18 you and not -- they just sit them on the shelf, 19 that's a good feeling. 20 But again, when the reject -- rejected 21 rate -- and again, please understand that the 22 rejected rate comes from partisan people because 23 we -- the election's office handles the manual part 24 of it. You know, we print the ballots. We take the 25 applications. We data enter. We mail them. We</p>
<p style="text-align: right;">Page 51</p> <p>1 State? 2 A. Yes. It -- it goes up every day in that 3 export and that import. 4 Q. Okay. You testified that the rejection 5 rate for Bexar County in the -- the general election 6 in November of 2022, if I understand correctly, was 7 approximately 1.7 percent? 8 A. Yes, sir. 9 Q. And my impression is that you take some 10 satisfaction in having gotten the number down to that 11 point; is that correct? 12 A. Absolutely. I'm so proud of my staff. 13 Q. How does that compare with the rejection 14 rate in 2020 in Bexar County? 15 A. Again, as -- as -- as I said, 2020 had a 16 higher rejection rate because just on the economy of 17 scale, when we're talking approximately 40,000 in 18 2022, but 124,000 in 2020, you can see you're going 19 to have a higher rejection rate based on -- you know, 20 the rejection's are the same no matter what election 21 you're doing. 22 If somebody doesn't sign their ballot, they 23 don't sign their ballot and that happens every time. 24 The only new thing this time was the TDL or the SSN, 25 the missing -- the missing information, but we have</p>	<p style="text-align: right;">Page 53</p> <p>1 bring them back in. We scan them. 2 And then once they're back, they get turned 3 over to the early ballot board. And that early 4 ballot board is a group of people that are appointed 5 by the Democrat and the Republican party. They are 6 not our employees. They are independent -- an 7 independent body. 8 And so, once we turn these over to them, 9 they are the ones who will make the decision that 10 there's no signature, or this person didn't sign it, 11 that signature doesn't match, whatever that's that 12 group. And then that's where we get the rejection 13 rate, the final rejection rate. 14 Q. How did Bexar County's 1.7 percent 15 rejection rate in the general election in 2022 16 compare to the rejection rate in general election 17 years prior to 2020? 18 A. It was less. It was less. I -- I can't 19 give you a number. I didn't do all the data mining, 20 but we can find it out. 21 Q. Can -- can you say that it was 22 significantly less? 23 A. It -- you know, I would feel like if you're 24 looking at just raw numbers it would appear to be 25 down 50 percent. But the difference between a three</p>

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<p style="text-align: right;">Page 58</p> <p>1 MR. GENECHIN: Thank you.</p> <p>2 MS. CUBRIEL: This is counsel for Bexar</p> <p>3 County. I just want to say, at her last deposition,</p> <p>4 she brought an earlier version of the form --</p> <p>5 THE WITNESS: Uh-huh. Yes.</p> <p>6 MS. CUBRIEL: -- that was an exhibit. And</p> <p>7 so, our intent, and why I had her pull it out is, we</p> <p>8 do wish to make this an exhibit because this is the</p> <p>9 updated version.</p> <p>10 MR. BRYANT: Okay.</p> <p>11 THE WITNESS: It worked better.</p> <p>12 MS. CUBRIEL: Yeah.</p> <p>13 MR. BRYANT: Right.</p> <p>14 MS. CUBRIEL: And can you pass those extra</p> <p>15 ones down.</p> <p>16 MR. BRYANT: I will do that.</p> <p>17 (Exhibit 9 was marked.)</p> <p>18 Q. BY MR. BRYANT: Miss Callanen, let me show</p> <p>19 you what was marked Exhibit C at an earlier</p> <p>20 deposition that you gave in this case, and I've</p> <p>21 marked it as JC3, Exhibit 9.</p> <p>22 A. Uh-huh.</p> <p>23 Q. Can you describe what that is.</p> <p>24 A. This is an earlier version of -- of what we</p> <p>25 have there. And again, black and white. And you can</p>	<p style="text-align: right;">Page 60</p> <p>1 THE WITNESS: Yeah.</p> <p>2 MR. GENECHIN: Are we going to mark this?</p> <p>3 MR. BRYANT: Yes, we will. I'm just trying</p> <p>4 to figure out what number I have not yet used.</p> <p>5 (Exhibit 13 was marked.)</p> <p>6 Q. BY MR. BRYANT: All right. Miss Miss</p> <p>7 Callanen I'm handing you what's been marked as JC3,</p> <p>8 Exhibit 13. Could you describe what that is.</p> <p>9 A. Yes, sir. This is the insert that we used</p> <p>10 for the November 2022 mail ballots.</p> <p>11 Q. Okay. And the -- the earlier exhibit that</p> <p>12 I showed you which is marked JC3, Exhibit 9, and also</p> <p>13 Exhibit C to your earlier deposition, when was that</p> <p>14 one in use?</p> <p>15 A. The black and white one came into use for</p> <p>16 the May elections, the city and school elections.</p> <p>17 Then the colored one came into use where it says the</p> <p>18 teal, that was for the primary runoff, which was also</p> <p>19 at the end of May. So May --</p> <p>20 Q. May of 2022?</p> <p>21 A. -- of '22. Yes, sir. We had the primary</p> <p>22 in March, and then we had the city and school</p> <p>23 elections the first Saturday, and then we had the</p> <p>24 primary runoff at the end of May. And so then in the</p> <p>25 next couple of months, then we went back and did</p>
<p style="text-align: right;">Page 59</p> <p>1 see, if you want to just -- to make the difference on</p> <p>2 it, when we did it this time, we wrote on here. It</p> <p>3 says, "Under the flap on your teal envelope." But we</p> <p>4 took "teal" off. We didn't -- people want to mess</p> <p>5 with what the color was.</p> <p>6 So the new ones just say, "Under the flap."</p> <p>7 So, again, we just -- again, in our office, we use it</p> <p>8 for not -- we were, like -- can I -- dare I say, we</p> <p>9 were dumping it down. We wanted to make it as simple</p> <p>10 as possible, so we took out extra -- I think, she</p> <p>11 wants to see it.</p> <p>12 MS. PAIKOWSKY: Would you mind if I see it?</p> <p>13 MR. BRYANT: Absolutely.</p> <p>14 MS. PAIKOWSKY: Thanks so much.</p> <p>15 Q. BY MR. BRYANT: And the -- Miss Miss</p> <p>16 Callanen are all -- you -- you handed me three --</p> <p>17 A. Here's another one.</p> <p>18 Q. -- examples. Are those all the same?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay.</p> <p>21 A. That's all I brought.</p> <p>22 MS. PAIKOWSKY: And if it's helpful, I</p> <p>23 actually have a color version of the previous</p> <p>24 exhibit.</p> <p>25 MR. BRYANT: That's great. Okay.</p>	<p style="text-align: right;">Page 61</p> <p>1 another deep dive on it and we think this is simpler.</p> <p>2 We -- we changed it a little bit.</p> <p>3 Q. And when you say, "this," you're referring</p> <p>4 to JC3, Exhibit 13?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay.</p> <p>7 A. I'm sorry.</p> <p>8 Q. It's just -- it's often a written --</p> <p>9 written process, so we got to refer to exhibits. Did</p> <p>10 you observe in -- in Bexar County, in connection with</p> <p>11 the November 2022 general election, changes in the</p> <p>12 level of voter understanding of the mail-in voting</p> <p>13 process?</p> <p>14 A. Absolutely.</p> <p>15 Q. Could you describe what you observed in</p> <p>16 that regard.</p> <p>17 A. Again, anecdotally, if you want to say,</p> <p>18 number one, you know, the reject rate proves that --</p> <p>19 that we did see that.</p> <p>20 But number two, in the course of the</p> <p>21 election, we noticed that we were having a lessening</p> <p>22 of the phone calls where they were asking for</p> <p>23 assistance. You know, that -- but again, we were</p> <p>24 doing major media. We were doing handouts</p> <p>25 everywhere. We had handouts out at the early voting</p>

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<p style="text-align: right;">Page 62</p> <p>1 sites. We -- we were -- we just sort of threw 2 everything at it that we could because it was just so 3 important. 4 Q. Okay. You were describing some media 5 outreach and voter education efforts that occurred in 6 connection with the November 2022 general election; 7 is that right? 8 A. Yes, sir. 9 Q. Were those efforts that were made 10 specifically in and by Bexar County or were they a 11 broader effort, or both? 12 A. We, the election's office, had our own 13 outreach. But again, members of my commissioner's 14 court entered into it and they did their own outreach 15 for it also, separate and apart from the elections 16 office. 17 Q. Okay. Could you describe as -- as much as 18 you recall, the media outreach that was done to 19 educate voters about mail-in balloting in connection 20 with the November 2022 general election process in 21 Bexar County. 22 A. Sure. I mean, we -- we did press 23 conferences twice a week. We did, again, outreach 24 everywhere we went, every -- every presentation we 25 put on, every meeting we went to. We worked with the</p>	<p style="text-align: right;">Page 64</p> <p>1 time for a break? 2 MR. BRYANT: Certainly. Let's take a 3 break. 4 THE VIDEOGRAPHER: Time is 10:21. 5 Correction, 10:28 a.m. and we are off the record. 6 (A brief recess was taken.) 7 THE VIDEOGRAPHER: Time is 10:38 a.m. and 8 we are on the record. 9 Q. BY MR. BRYANT: Miss Callanen, you were 10 testifying before the break about outreach and voter 11 education efforts that were made in connection with 12 the November 2022 general election. And it sounded 13 to me as if those were fairly extensive and ramped up 14 from previous elections; is that correct? 15 A. Yes, sir. Yes, sir. 16 Q. Do you anticipate looking forward that 17 it'll be necessary to continue to increase and 18 increase the level of effort and expense that Bexar 19 County does on -- on voter education and outreach? 20 Or do you believe that over time the need to do that 21 will level off or decline as people understand better 22 the -- the procedures? 23 MS. PAIKOWSKY: Objection; form. 24 THE WITNESS: I -- I understand your 25 question. I -- again, this is an odd number year, so</p>
<p style="text-align: right;">Page 63</p> <p>1 AARP. We worked with Oasis. We -- we did outreach 2 with the organizations that -- that go to the senior 3 citizens to -- to try and -- we worked very heavily 4 with the disability community. In fact, we're still 5 working with the disability community at this time. 6 So, we -- we -- we just tried to do as much as we 7 could. 8 Q. And during what period of time were those 9 efforts undertaken with respect to the November 2022 10 general election process? 11 A. They started the middle of September 12 through Novem- -- November. Because, again, the 13 middle of September is basically, again, for us is 14 when that's the go button, because we all have to 15 abide by the MOVE Act, which is the federal military 16 MOVE Act, and that's always 45 days before an 17 election. So, once our ballots go out, it's -- 18 somebody's hit the go button. 19 Q. Did Bexar County comply with that 45-day 20 requirement in connection with the general 21 election -- 22 A. Absolutely. 23 Q. -- in 2022? 24 A. Absolutely. 25 MR. GENECHIN: David, would this be a good</p>	<p style="text-align: right;">Page 65</p> <p>1 we will have so many less people. And I think we 2 will have to duplicate our media outreach for 2024. 3 Because, again, you keep hearing me say we had 40,000 4 now and 124,000. So that, to me, is there's another 5 80,000 that have not used the new method. 6 So, we're going to stay attuned to that and 7 stay focused on that. So, I expect that when we get 8 to the 2024 we'll duplicate what we've done. 9 Q. BY MR. BRYANT: Okay. Do you have any 10 expectations on that subject beyond 2024? 11 A. No, sir. 12 Q. Okay. You testified earlier about efforts 13 that your office makes to contact people whose 14 mail-in ballots have initially been rejected. And I 15 believe you indicated that sometimes that's by 16 e-mail, sometimes that's by phone. 17 Could you describe the extent and 18 regularity of those efforts that were undertaken in 19 connection with the November 2022 general election. 20 A. Yes, sir. Well, in SB-1 it opened up the 21 door for us to be able to have outreach so that they 22 could cure their -- their ballots, that's the phrase 23 we use, they could cure their ballots. And they 24 opened up the avenue of the phone and by e-mail as 25 opposed to sending them the hard copy reject and</p>

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Pages 142 to 145

<p style="text-align: right;">Page 142</p> <p>1 Q. BY MS. PAIKOWSKY: Why do you think your 2 county's rejection rate was lower than the statewide 3 rate? 4 A. Because I'm proud of our insert and the 5 work we did. 6 Q. Do you think that other counties have the 7 same level of resources and expertise as Bexar County 8 to implement the kinds of interventions you 9 discussed? 10 MS. CUBRIEL: Objection; form. 11 THE WITNESS: I had made reference to that 12 before that, you know, prior to 2020, I would have 13 answered, yes. But since we've had such a turnover 14 in election leadership, I -- I think it's really hard 15 for a new person to get all the nuances and 16 understand how you have to touch your voters. 17 Q. BY MS. PAIKOWSKY: Do economic resources 18 factor into county's ability to implement the kinds 19 of solutions you did in Bexar County in November of 20 2022? 21 A. I would say absolutely. 22 Q. So, earlier, you mentioned that the 23 November 2022 general election ran more smoothly than 24 the November 2020 election. Can you describe more 25 about why that was.</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Do you believe that the November 2022 2 general election was smoother than the 2018 general 3 election? 4 A. No. They were the same. 5 Q. Okay. As compared to the 2018 general 6 election, was mail voting more difficult in the 2022 7 general election? And I'm referring to both 8 processing mail ballots and voter education. 9 A. Yes. 10 Q. Why is that? 11 A. With the ID requirement. The new -- you 12 know, the new -- relatively new ID requirement that 13 we didn't have in prior elections. 14 Q. Was there any information that would have 15 been useful to administering mail voting in the 16 general election that was not captured in the TEAM 17 database? 18 A. No. My initial reaction would be, no. But 19 in hindsight, during this back and forth -- I mean, 20 if -- if you were looking for multiples, you know, 21 maybe we would open up that for multiples. But as an 22 administrator doing the election at the time, no. 23 Q. Does your county keep any data on ABBM 24 rejections that is not reflected in TEAM? 25 A. No.</p>
<p style="text-align: right;">Page 143</p> <p>1 A. Again, just sheer numbers. It -- it -- it 2 basically was just a numbers thing. Because as we 3 talked about mainly, you know, the mail ballots, when 4 you're dealing with 124,000 going out and 92,000 5 coming back, our office, because we do, we handle 6 everything in house, every single piece of it is 7 handled in house, in 2020 my office, we were -- we 8 were working two shifts. We didn't have to do that 9 in 2022. 10 In 2020, we were, I think, since you had 11 asked, we did, like, 1,200 voters that we had -- 12 workers that we had to put out there. Well, in 13 2022 -- or 2020, because we expected more voters, we 14 had more workers. And so we were, like, at 1,800. 15 And so, that's what I'm speaking to, the 16 more complexities, it's -- takes longer to get 1,800 17 people than it does to get 1,200. It takes longer to 18 do 124 applications than it does to do 40. 19 Q. And in the differences between the 20 November '22 general election and the November '20 21 general election, would you say that COVID-19 also 22 impacted the smoothness of one election as compared 23 to the other? 24 A. No, because we had that figured out prior 25 to that November.</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. Does your county keep any data on carrier 2 envelope rejections that is not reflected in TEAM? 3 A. No. 4 Q. I think that is all my questions. 5 MS. PAIKOWSKY: I would like to go off the 6 record if that's okay for just maybe five minutes and 7 we can chat and then come back on. 8 THE VIDEOGRAPHER: The time is 1:27 p.m. 9 and we are off the record. 10 (A brief recess was taken.) 11 THE VIDEOGRAPHER: The time is 1:33 p.m. 12 and we are on the record. 13 MS. PAIKOWSKY: And I am going to pass the 14 witness at this time. 15 MR. GENECCIN: Thank you. 16 17 EXAMINATION 18 BY MR. GENECCIN: 19 Q. Good afternoon, Miss Callanen. 20 A. Good afternoon, sir. 21 Q. My name is Victor Genecin. 22 A. Victor. I said, "Dennis." I'm sorry. 23 Q. And I've got a few questions for you. Just 24 a little while ago, when you were answering 25 Ms. Paikowsky's questions, you cited the number</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX I

JANE NELSON, et al.,
Defendants,

Case No. 1:21-cv-0786-XR

Jennifer Colvin

March 21, 2023
Pages 2 to 5

Page 2	Page 4
<p>1 MI FAMILIA VOTA, et § al., § 2 Plaintiffs, § § 3 v. § Case No. 5:21-cv-0920-XR § 4 GREG ABBOTT, et al., § Defendants. § 5 6 7 8 9 ORAL AND VIDEOTAPED DEPOSITION OF 10 JENNIFER COLVIN 11 MARCH 21, 2023 12 13 14 15 ORAL AND VIDEOTAPED DEPOSITION OF JENNIFER COLVIN, 16 produced as a witness at the instance of the Defendants 17 and duly sworn, was taken in the above styled and 18 numbered cause on Tuesday, March 21, 2023, from 19 12:20 p.m. to 3:43 p.m., before DONNA QUALLS, Notary 20 Public in and for the State of Texas, reported by 21 computerized stenotype machine, at the offices of Harris 22 County Attorney's Office, 1019 Congress Street, 15th 23 Floor, Houston, Texas, pursuant to the Federal Rules of 24 Civil Procedure, and any provisions stated on the record 25 or attached hereto.</p>	<p>1 LEIGH TOGNETTI (Via Zoom) LISA CUBRIEL, BEXAR COUNTY (Via Zoom) 2 LUCIA ROMANO (Via Zoom) MIKE STEWART, DOJ (Via Zoom) 3 URUJ SHEIKH, LDF (Via Zoom) ZACHARY DOLLING, TCRP, OCA (Via Zoom) 4 REGGIE WRIGHT, THE VIDEOGRAPHER 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S 2 3 FOR THE HARRIS COUNTY ELECTIONS ADMINISTRATOR: SAMEER S. BIRRING TIFFANY BINGHAM 4 OFFICE OF THE HARRIS COUNTY ATTORNEY CHRISTIAN D. MENEFEE 5 1019 Congress, 15th Floor Houston, Texas 77002 6 (713) 274-5142 sameer.birring@harriscountytexas.gov 7 8 FOR THE HOUSTON AREA URBAN LEAGUE (HAUL) PLAINTIFFS: JENNIFER A. HOLMES 9 NAACP Legal Defense and Educational Fund, Inc. 700 14th Street N.W., Suite 600 10 Washington, District of Columbia 20005 (347) 573-0197 11 jholmes@naacpldf.org 12 13 FOR THE UNITED STATES: DANA PAIKOWSKY 14 U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW Washington, District of Columbia 20530 15 (202) 353-5225 dana.paikowsky@usdoj.gov 16 17 FOR THE STATE DEFENDANTS: KATHLEEN T. HUNKER 18 OFFICE OF THE ATTORNEY GENERAL P.O. BOX 12548 (MC-009) 19 AUSTIN, TEXAS 78711-2548 (512) 463-2100 20 kathleen.hunker@oag.texas.gov 21 22 Also Present: STEPHEN KENNY (Via Zoom) BRADLEY PROWANT (Via Zoom) 23 BREANNA WILLIAMS, NAACP (Via Zoom) CARRIE LEBEL (Via Zoom) 24 GERMAINE HABELL (Via Zoom) JOHN GORE, GOP (Via Zoom) 25 JOHN SULLIVAN BAKER, DOJ (Via Zoom)</p>	<p>1 INDEX 2 PAGE 3 4 Appearances..... 3 5 JENNIFER COLVIN 6 Examination by Ms. Hunker..... 7 7 Examination by Ms. Paikowsky..... 47 8 Examination by Ms. Holmes..... 74 9 Further Examination by Ms. Hunker..... 92 10 11 Corrections & Signature..... 104 12 Reporter's Certificate..... 106 13 14 EXHIBIT INDEX 15 16 NUMBER DESCRIPTION PAGE 17 Exhibit 11 Election reconciliation 24 18 official totals 19 Exhibit 12 Defendant Harris County 38 20 Elections Administrator, Clifford Tatum's responses and objections to state defendants' 21 second set of interrogatories, and third set of requests for Production 22 Exhibit 13 Ballot insert 41 23 Exhibit 14 Ballot insert 53 24 Exhibit 15 Call log spreadsheet 77 25 Exhibit 16 Harris County Elections 89 Administrator, Clifford Tatum's supplemental responses to state defendants' second set of interrogatories</p>

Jennifer Colvin

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Pages 14 to 17

<p style="text-align: right;">Page 14</p> <p>1 A. Yes.</p> <p>2 Q. And you also occupied this position for the May</p> <p>3 local election and primary runoff that were both held in</p> <p>4 May?</p> <p>5 A. Correct.</p> <p>6 Q. And then you also occupied this position for</p> <p>7 the 2022 general election; is that right?</p> <p>8 A. Correct.</p> <p>9 Q. And approximately how many full-time employees</p> <p>10 work under your supervision?</p> <p>11 A. Sixteen.</p> <p>12 Q. And do you know how many full-time employees</p> <p>13 work for the Harris County Elections Administrator's</p> <p>14 Office generally?</p> <p>15 A. I don't have that number.</p> <p>16 Q. And did you increase the number from 16 in the</p> <p>17 lead-up for the November 2022 election?</p> <p>18 A. Full-time employees, no.</p> <p>19 Q. Did you hire temporary employees?</p> <p>20 A. We did.</p> <p>21 Q. And is that common practice in your office?</p> <p>22 A. It is for every election.</p> <p>23 Q. And how many did you add?</p> <p>24 A. For the November?</p> <p>25 Q. That's correct.</p>	<p style="text-align: right;">Page 16</p> <p>1 this particular report?</p> <p>2 A. I provided some information for this report.</p> <p>3 Q. And what information would that have been?</p> <p>4 A. Any numbers -- anything pertaining to ballot by</p> <p>5 mail.</p> <p>6 Q. So let's turn to page 15. And do you see where</p> <p>7 it has "Subsection 4, Early Voting Operations"?</p> <p>8 A. I do.</p> <p>9 Q. And the first sentence reads: "Early Voting</p> <p>10 operations include ballot by mail and in-person voting</p> <p>11 at EVCs."</p> <p>12 Did I read that correctly?</p> <p>13 A. Correct.</p> <p>14 Q. And then let's go to the next subsection which</p> <p>15 is "Subsection A, Ballot By Mail."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. And so my first question is going to be</p> <p>19 quite general. Did you implement any changes in your</p> <p>20 voting-by-mail procedures between the May elections and</p> <p>21 the November 2022 general election?</p> <p>22 A. The only change would be the form that we</p> <p>23 mailed out with our ballots.</p> <p>24 Q. Okay. And I will address that in a little bit.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. In total, approximately 100.</p> <p>2 Q. And is that about expected for a general</p> <p>3 election?</p> <p>4 A. It depends on the number of applications we</p> <p>5 receive, but, yes.</p> <p>6 Q. And so let's start with Topic No. 4. Topic 4</p> <p>7 reads: "Your policies, practices, and procedures</p> <p>8 regarding mail-in voting during the November 8, 2022,</p> <p>9 general election.</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. And to do that, I want you to turn your</p> <p>13 attention to Exhibit 4. This is -- should be in your</p> <p>14 pile.</p> <p>15 A. Exhibit 4?</p> <p>16 Q. Uh-huh.</p> <p>17 A. Okay.</p> <p>18 Q. Do you have the exhibit in front of you?</p> <p>19 A. I do.</p> <p>20 Q. And do you recognize this exhibit?</p> <p>21 A. I do.</p> <p>22 Q. And what is it?</p> <p>23 A. It's the Harris County Administrator's report</p> <p>24 on the election.</p> <p>25 Q. Did you participate at all in the drafting of</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. And you're referring to the ballot insert; is</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. So the first sentence reads: "All mail ballots</p> <p>5 returned by voters were delivered to the NRG Arena and</p> <p>6 reviewed and processed by the Signature Verification</p> <p>7 Committee."</p> <p>8 Did I read that correctly?</p> <p>9 A. You did.</p> <p>10 Q. And just for clarification, can you please tell</p> <p>11 me what is a signature verification committee?</p> <p>12 A. It's a group of both political parties.</p> <p>13 They're appointed by their -- the parties, and they come</p> <p>14 in to review -- it'll -- for instance, it's five Dems,</p> <p>15 five Reps. You have a judge, a presiding judge and an</p> <p>16 alternate judge, one of each party. And then they come</p> <p>17 in and review the ballots to make sure the ID and</p> <p>18 signature match.</p> <p>19 Q. And so I just want to understand the procedure.</p> <p>20 So when a ballot by mail is delivered to the early</p> <p>21 voting clerk, what happens to that particular ballot?</p> <p>22 Like how is it processed?</p> <p>23 A. We receive the ballot in, and we image it.</p> <p>24 We -- once we image it, it goes to -- it gets put in a</p> <p>25 tub for the board. It's sealed, and we log it. Once</p>

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<p style="text-align: right;">Page 18</p> <p>1 the board sends members, we start -- they send in a</p> <p>2 couple of members to help our team -- they designate our</p> <p>3 team to pull the flaps to check for IDs. Once we start</p> <p>4 doing that, we process any that don't have IDs -- we</p> <p>5 mail back to the voters to get them a chance to cure</p> <p>6 that ballot. Any -- all the rest of them are put back</p> <p>7 in the tubs, and we hold them until the SVC convenes.</p> <p>8 Q. Okay. And so you mentioned that in your county</p> <p>9 the early voting clerk removes the flap to determine</p> <p>10 whether or not the numbers were added; is that correct?</p> <p>11 A. Correct. Well, us and some of the board</p> <p>12 members. It's a group effort depending on the quantity.</p> <p>13 Q. And this is to determine whether or not the</p> <p>14 voter put down their either their social security or</p> <p>15 Texas ID number?</p> <p>16 A. Correct.</p> <p>17 Q. And how do you contact the voter if you</p> <p>18 determine that the voter did not put down an ID number?</p> <p>19 A. There's multiple ways you can contact them. We</p> <p>20 normally give a phone call, and we send a letter. If</p> <p>21 it's before the ballot board meets, the EVBB convenes,</p> <p>22 we mail them the ballot back.</p> <p>23 Q. Okay. And so are you doing this before this --</p> <p>24 when I say "doing this," I mean removing the flap before</p> <p>25 the signature verification committee meets?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. We call on their behalf.</p> <p>2 Q. And according to this report, the signature</p> <p>3 verification committee convened on October 9th; is that</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 MS. BINGHAM: Object to form. It was the</p> <p>7 19th.</p> <p>8 THE REPORTER: Can you speak up?</p> <p>9 MS. BINGHAM: Tiffany Bingham.</p> <p>10 A. It was October 19th.</p> <p>11 Q. (BY MS. HUNKER) Okay. And do they meet each</p> <p>12 day after that?</p> <p>13 A. Depending on volume. It's not a set schedule.</p> <p>14 Q. And you were -- your office was removing the</p> <p>15 flap. Did you notice that less voters as compared to</p> <p>16 the primary and the May elections were not at --</p> <p>17 including their ID number or social security number?</p> <p>18 MS. HOLMES: Objection to form.</p> <p>19 MS. BINGHAM: Objection to form.</p> <p>20 MS. HUNKER: You can answer the question.</p> <p>21 A. There were less voters that left off the ID.</p> <p>22 Q. (BY MS. HUNKER) And the signature verification</p> <p>23 committee, do they also review the ballot to determine</p> <p>24 whether or not there is a signature match?</p> <p>25 A. They do.</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes.</p> <p>2 Q. And so you can contact the voter before the</p> <p>3 signature verification committee meets; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And the signature verification committee, they</p> <p>6 then -- how do they then handle the ballot?</p> <p>7 A. The one without the ID or the ones with the ID?</p> <p>8 Q. The ones -- first without the ID. We'll start</p> <p>9 there.</p> <p>10 A. They designate us to send the ballot back to</p> <p>11 the voter on their behalf.</p> <p>12 Q. Okay. And the ones with ID?</p> <p>13 A. The ones with ID, they go through the process</p> <p>14 to compare the numbers to the -- statements in the</p> <p>15 system to make sure that the two match, and then they</p> <p>16 can okay the ballot.</p> <p>17 Q. And do they, too, call the voter?</p> <p>18 A. Go ahead.</p> <p>19 Q. Do they, too, call the voter if they notice</p> <p>20 that they're -- let me strike that.</p> <p>21 How does the Signature verification</p> <p>22 committee contact the voter?</p> <p>23 A. They delegated that to our office.</p> <p>24 Q. And is that when your office would also call</p> <p>25 or --</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. And are they contacted -- the individual voters</p> <p>2 who, let's say, either failed to put their signature or</p> <p>3 had a mismatch, are they contacted the same way?</p> <p>4 A. They are.</p> <p>5 Q. And then what happens when a -- the signature</p> <p>6 verification committee processes the ballot, and then it</p> <p>7 goes to the early voting ballot board?</p> <p>8 A. The signature verification committee can okay</p> <p>9 the ballot. If they have a questionable ballot, that's</p> <p>10 when it -- that goes over to the ballot board.</p> <p>11 Q. So if a ballot is accepted by the signature</p> <p>12 verification committee, it is accepted?</p> <p>13 A. Yes.</p> <p>14 Q. And it only the questionable ballots that move</p> <p>15 to the early voting ballot board; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. Does the early voting ballot board then have</p> <p>18 any role with respect to matching ID numbers?</p> <p>19 A. They do.</p> <p>20 Q. What is that role?</p> <p>21 A. They take -- they assume the same process as</p> <p>22 the SVC.</p> <p>23 Q. And how do you contact the voter once the early</p> <p>24 voting ballot board meets?</p> <p>25 A. We keep the ballot in our possession and notify</p>

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<p style="text-align: right;">Page 30</p> <p>1 returned -- those are ballots that were just not 2 returned by the voter, correct? 3 A. Right. They had no return status in our 4 system. 5 Q. What about mail ballots surrendered? 6 A. Those are voters that surrendered their ballots 7 at the poll if they wanted to vote early on Election 8 Day. 9 Q. And for a voter who did not include their ID 10 number or had a mismatched ID number, were they then 11 able to return their ballot and vote in person if they 12 had time? 13 A. Yes. 14 Q. And so the mail ballot surrendered, does that 15 include those individuals? 16 A. It could possibly. 17 Q. Okay. And then mail ballots not countable, 18 what does that mean? 19 A. That would mean they either came in after the 20 election. They were late ballots. They're not 21 countable ballots. 22 Q. And so the -- with the exception of the mail 23 ballots not countable, the other numbers are all ballots 24 that would have been received before the ballot-received 25 deadline the day after the election?</p>	<p style="text-align: right;">Page 32</p> <p>1 ID number defect by e-mail and have it resolved by 2 e-mail and returned? 3 A. Correct. 4 Q. And did you observe that, looking at the 5 rejected ballot, generally, that some ballots had 6 multiple defects, not just one? 7 A. Yes. 8 Q. Now, when you're reporting that defect, do you 9 put only one reason, or do you put the fact that there 10 were multiple defects? 11 A. VOTEC only allows us to put one reason. The 12 voter will get a letter for both reasons. 13 Q. So there are some voters who may be listed as 14 having one defect but their ballot in fact had 15 multiple -- is that correct? -- in your system? 16 MS. HOLMES: Objection to form. 17 MS. HUNKER: You can answer the question. 18 A. Correct. Well, let me -- let me elaborate. 19 Both of the letters will be in the system. So if a 20 voter were to call us, we can see both letters that were 21 sent. So we can tell them, yes, there was more than one 22 defect. But as far as reporting to the State, you can 23 only send one code. 24 Q. (BY MS. HUNKER) And so your reports to the 25 State only reflect one defect, not the -- not if there</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes. 2 Q. Thank you. And let's go back to page 16. And 3 so it says "The EOA processed over 80,000 mail ballot 4 applications as reflected in the table below." 5 Did I read that correctly? 6 A. Yes. 7 Q. Okay. 8 A. EAO. 9 Q. EAO. 10 A. Yes. 11 Q. Thank you. And so we have domestic versus 12 UOCAVA voters, correct? 13 A. Yes. 14 Q. When a military or overseas voter did not 15 include an ID or had -- let's say had a defect in their 16 ballot, how would you go about contacting that military 17 voter? 18 A. Via e-mail or phone. 19 Q. And a military voter has the option of 20 resubmitting their signature sheet; is that correct? 21 A. Correct. 22 Q. And can they resubmit -- resubmit that 23 signature sheet via e-mail? 24 A. Correct. 25 Q. And so you can contact a military voter about a</p>	<p style="text-align: right;">Page 33</p> <p>1 were multiple defects? 2 A. Correct. 3 Q. And looking specifically at the UOCAVA voters 4 who had their ballots rejected, did you look at the 5 reasons why those ballots were rejected? 6 A. Not each one individually, no. 7 Q. Were they rejected for a variety of reasons? 8 A. Yes. 9 Q. And so I just want to talk a little bit about a 10 little later on page where it says "Mail ballot problems 11 encountered," second paragraph specifically. It says: 12 "During the mail ballot period, the EAO received reports 13 that voters were not receiving" bal- -- "mail ballots 14 and that voters were being charged extra postage because 15 of the size of the carrier envelope." 16 Did I read that correctly? 17 A. Yes. 18 Q. And did your office ever determine why certain 19 voters were not receiving their ballots? 20 A. No. 21 Q. And for the voters who were not receiving their 22 ballots, the ballot was sent. It just was not received; 23 is that correct? 24 A. Correct. 25 Q. And so there was some issue with the postal</p>

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<p style="text-align: right;">Page 98</p> <p>1 A. We had less. There were more rejects due to ID 2 in previous elections. 3 Q. (BY MS. HUNKER) Now, you had spoken a little 4 bit with counsel about the different codes for when a 5 ballot was rejected for an ID requirement. Is there a 6 separate code if there's a rejection due to lack of 7 signature? 8 A. Yes. 9 Q. Do you recommend that voters put down their 10 phone number or e-mail when they're applying to vote by 11 mail? 12 A. Does our office recommend it? 13 Q. Yes. 14 A. Yes. So we can reach out to the voters if 15 there's a problem with their application. 16 Q. And do you find that most voters follow through 17 on your recommendation? 18 A. We get a lot of phone numbers and e-mails. 19 Q. You also discussed with counsel about that 20 there were occasions where the county voting system had 21 two IDs but the TEAM's database only had one. 22 Do you recall that conversation? 23 A. Yes. 24 Q. When you notice that the county database has 25 two ID numbers but the TEAM's database only has one, do</p>	<p style="text-align: right;">Page 100</p> <p>1 receiving very minimal applications right now. 2 Q. Okay. To your knowledge, has Harris County 3 ever had a rejection rate for ballots by mail that was 4 zero? 5 A. No. 6 Q. And so I want to turn to Exhibit 16 which was 7 provided by your office during this deposition. 8 A. 16. 9 Q. Yes. This is the updated... 10 A. Oh, my apologies. It's right in front of me. 11 Q. So looking at -- let me take a step back. 12 Are you using the same database, offline 13 database, in 2022, as you were in these previous 14 elections? 15 A. Yes. 16 Q. And how did you come to these rejection rates 17 for previous elections? 18 A. From numbers within the voter management 19 system. 20 Q. Were you required to report rejections prior to 21 2022? 22 A. Yes. 23 Q. And was that reported to the secretary of 24 state's office? 25 A. Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 you inform the secretary of state's office to update the 2 TEAM's database? 3 A. No. 4 Q. And do you know if there's -- if there's a 5 policy or procedure that perhaps your tech division has 6 with respect to updating? 7 A. I don't know. 8 Q. Okay. If the county database only has one 9 number but the TEAM's database has two numbers and the 10 number the voter put is the one that was in the TEAM's 11 database but not the one in the county's database, you 12 would accept that ballot; is that correct? 13 A. Correct. 14 Q. There's an option for voters with disabilities 15 as well as voters over 65 to submit an application for 16 ballot by mail for the entire year, correct? 17 A. Correct. Annual. 18 Q. And you've already started receiving annual 19 applications for the 2023? 20 A. That's correct. 21 Q. And did you notice fewer rejections for the 22 applications that were submitted this year due to the ID 23 mismatch or lack of ID as compared to previous elections 24 in 2022? 25 A. I haven't analyzed that data, but we're</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And so in previous elections, Texas utilized 2 signature verification, correct? 3 A. Yes. 4 Q. And do you know if the signature verification 5 committee utilized the same standard election from 6 election? 7 MS. HOLMES: Objection to form. 8 A. Yes. 9 Q. (BY MS. HUNKER) And did they utilize the same 10 standard election to election? 11 MS. HOLMES: Objection to form. 12 A. Repeat that. 13 Q. (BY MS. HUNKER) So my first question was did 14 you know if they did, and then I realized that was maybe 15 not clear. And so I just wanted to clarify, did they 16 use the same standard for signature verification 17 election from election? 18 A. Prior to SB1, they didn't have to compare IDs. 19 But after SB1, they had to compare IDs. That's the 20 difference in their processes. 21 Q. So I think I maybe, then, asked a confusing 22 question. So I'm talking about the signature 23 verification, not ID -- 24 A. Only their signature verification? 25 Q. Only their signature verification. So there</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
OCA-GH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

APPENDIX J

Jacqueline Doyer

March 29, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)
ENTERO, ET AL.,)
Plaintiffs,)
VS.) CIVIL ACTION NO.
) 5:21-CV-844 (XR)
STATE OF TEXAS, ET AL.,)
Defendants.)

ORAL DEPOSITION OF
JACQUELINE DOYER
MARCH 29, 2023

ORAL DEPOSITION OF JACQUELINE DOYER,
produced as a witness at the instance of the Defendants,
and duly sworn, was taken in the above-styled and
numbered cause on the 29th day of March, 2023, from
3:14 p.m. to 4:03 p.m., before JAZZMEN CANALES, CSR, in
and for the State of Texas, reported by machine
shorthand at 209 West 14th Street, Austin, Texas 78701,
pursuant to the Texas Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

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Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 MS. NINA PERALES</p> <p>4 MALDEF</p> <p>5 110 Broadway, Suite 300</p> <p>6 San Antonio, Texas 78205</p> <p>7 210-224-5476</p> <p>8 E-mail: nperales@maldef.org</p> <p>9 FOR THE HOUSTON AREA URBAN LEAGUE PLAINTIFFS:</p> <p>10 MR. VICTOR GENECIN (Via Videoconference)</p> <p>11 NAACP Legal Defense and Educational Fund, Inc.</p> <p>12 40 Rector Street, 5th Floor</p> <p>13 New York, New York 10006</p> <p>14 929-388-9246</p> <p>15 E-mail: vgenecin@naacpldf.org</p> <p>16 FOR THE DEFENDANTS:</p> <p>17 MS. KATHLEEN HUNKER</p> <p>18 MR. ETHAN SZUMANSKI</p> <p>19 MR. ADAM BITTERS</p> <p>20 Office of the Attorney General of Texas</p> <p>21 P.O. Box 12548</p> <p>22 Austin, Texas 78711</p> <p>23 512-936-2275</p> <p>24 E-mail: kathleen.hunker@oag.texas.gov</p> <p>25 FOR THE UNITED STATES:</p> <p>MR. MICHAEL STEWART</p> <p>MR. DANIEL FREEMAN</p> <p>MR. RICHARD DELLHEIM</p> <p>U.S. Department of Justice</p> <p>950 Pennsylvania Avenue NW</p> <p>Washington, D.C. 20530</p> <p>202-307-2767</p> <p>E-mail: michael.stewart3@usdoj.gov</p>	<p style="text-align: right;">Page 4</p> <p>1 THE COURT REPORTER: At this time, the</p> <p>2 deposition of Jacqueline Hagan Doyer is being taken in</p> <p>3 the United States District Court For the Western</p> <p>4 District of Texas, San Antonio Division, Civil Action</p> <p>5 No. 5:21-cv-844 (XR), styled La Unión Del Pueblo Entero,</p> <p>6 et al. vs. State of Texas, et al. This deposition is</p> <p>7 being taken at The Price Daniel Sr. State Office</p> <p>8 Building, 209 West 14th Street, Austin, Texas 78701.</p> <p>9 The court reporter is Jazzmen Canales. May counsel</p> <p>10 please state your appearances,</p> <p>11 MR. STEWART: Michael Stewart for the</p> <p>12 United States. With me is Daniel Freeman and Richard</p> <p>13 Dellheim.</p> <p>14 MS. PERELAS: Nina Perales of Plaintiff</p> <p>15 LUPE, L-U-P-E, et al.</p> <p>16 MR. STEWART: Anyone who plans to ask</p> <p>17 questions to the Zoom?</p> <p>18 MS. HUNKER: Kathleen Hunker with Ethan</p> <p>19 Szumanski from the Office of the Texas Attorney General</p> <p>20 representing State Defendants individual legislators.</p> <p>21 With me is Adam Bitter and Zina Chala from the Office of</p> <p>22 the Secretary of State.</p> <p>23 JACQUELINE HAGAN DOYLE,</p> <p>24 having been first duly sworn, testified as follows:</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 2</p> <p>4 JACQUELINE DOYER</p> <p>5 Examination By Mr. Stewart..... 5</p> <p>6 Examination By Mr. Genecin..... 36</p> <p>7</p> <p>8 Changes and Signature Page 41</p> <p>9</p> <p>10 Reporter's Certificate 43</p> <p>11</p> <p>12 EXHIBITS</p> <p>13 NUMBER DESCRIPTION PAGE</p> <p>14 23 Audit report 9</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 EXAMINATION</p> <p>2 BY MR. STEWART:</p> <p>3 Q. Good afternoon. Do you prefer Doyer or Hagan</p> <p>4 Doyer?</p> <p>5 A. Doyer.</p> <p>6 Q. First question, you did great. So as we just</p> <p>7 said, I am here on behalf of the United States. My name</p> <p>8 is Mike Stewart. My understanding you are here as</p> <p>9 representative of the Secretary of State's office today;</p> <p>10 is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Thank you. And I am understanding that</p> <p>13 you are here to testify about the audit-related</p> <p>14 questions in the notice of deposition; is that correct?</p> <p>15 A. I understood with regard to the audit report</p> <p>16 and the specified sections of the report.</p> <p>17 Q. Great. Thank you. Have you been deposed</p> <p>18 before?</p> <p>19 A. I have not.</p> <p>20 Q. Okay. So before we start, I just want to real</p> <p>21 quickly go through ground rules that will set us up</p> <p>22 smoothly. So a deposition, as you probably see, it goes</p> <p>23 by question and answer. The reporter can only take down</p> <p>24 what you say out loud, so all your answers need to be</p> <p>25 verbal. Is that okay?</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Yes, sir.</p> <p>2 Q. I will try my best not to talk over you, and if</p> <p>3 you can wait until I am finished asking the question,</p> <p>4 that will work best. If ever I cut you off, just let me</p> <p>5 know, and we can make sure your full answer gets on the</p> <p>6 record. Okay?</p> <p>7 A. Yes.</p> <p>8 Q. So it is important to answer completely and</p> <p>9 accurately to the best of your ability. Do you</p> <p>10 understand that?</p> <p>11 A. Yes.</p> <p>12 Q. Great. If I ever ask a question that is</p> <p>13 unclear, you can ask me for clarification. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. Your attorney or attorney for another party may</p> <p>16 object. That's fine. And I will give them a second</p> <p>17 before you answer to allow them to object. But unless</p> <p>18 you are instructed not to answer or there is a privilege</p> <p>19 basis not to answer, you can go ahead and answer the</p> <p>20 question regardless. Okay?</p> <p>21 A. Yes.</p> <p>22 Q. Once the question is pending, I will just ask</p> <p>23 that you answer that question before you consult with</p> <p>24 your attorney or anything. Is that okay?</p> <p>25 A. I understand.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Anyone else?</p> <p>2 A. I met with Adam Bitter.</p> <p>3 Q. And anyone else?</p> <p>4 A. I met with Zina Chala.</p> <p>5 Q. Is that all?</p> <p>6 A. I also met with the members of the FAD team.</p> <p>7 Q. Okay. And those would be -- and do those</p> <p>8 individuals report to you on the FAD team?</p> <p>9 A. Some of them.</p> <p>10 Q. Some of them. And what were their roles?</p> <p>11 A. I have auditors that report to me, and then I</p> <p>12 also have a legal assistant that reports to me.</p> <p>13 Q. Okay. And when we say -- when you say FAD</p> <p>14 team, that's the Forensic Audit Division of the</p> <p>15 Secretary of State?</p> <p>16 A. That is correct.</p> <p>17 Q. Great. Thank you. Did you review any</p> <p>18 documents in the course of your preparation?</p> <p>19 A. I did.</p> <p>20 Q. What documents were those?</p> <p>21 A. I reviewed the audit report.</p> <p>22 Q. Okay. Anything else?</p> <p>23 A. I reviewed portions of the election code.</p> <p>24 Q. Okay. And then did you bring any documents</p> <p>25 with you here today?</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. And then if you need a break -- this should be</p> <p>2 short -- but just let me know, and we can see about</p> <p>3 that. If you later remember something you forgot</p> <p>4 earlier or want to add, just let me know, we can get</p> <p>5 that on the record. Okay?</p> <p>6 A. Understand.</p> <p>7 Q. If you can think of a document that would help</p> <p>8 refresh your recollection, we may have it. Just let me</p> <p>9 know. Okay?</p> <p>10 A. It looks like.</p> <p>11 Q. This is just one, I will say that. And then</p> <p>12 just -- this is a necessary question. But have you</p> <p>13 taken any medication, alcohol, drugs, anything that</p> <p>14 would affect your ability to understand what I am asking</p> <p>15 or give a complete answer today?</p> <p>16 A. No, sir.</p> <p>17 Q. Okay. And then you understand you are under</p> <p>18 oath, subject to penalties for false or misleading</p> <p>19 testimony, correct?</p> <p>20 A. I understand.</p> <p>21 Q. Okay. Great. So how did you prepare to</p> <p>22 testify for this deposition?</p> <p>23 A. I met with my attorneys.</p> <p>24 Q. And who would that be?</p> <p>25 A. I met with Kathleen Hunker.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. I did.</p> <p>2 Q. What did you bring with you?</p> <p>3 A. I brought a copy of the audit report and a copy</p> <p>4 of the letter we sent to Harris County.</p> <p>5 Q. Okay. Thank you. So -- and then just real</p> <p>6 quickly. Can you tell me what your role is in the</p> <p>7 Forensic Audit Division?</p> <p>8 A. I am the deputy and legal director for the</p> <p>9 division.</p> <p>10 Q. And how long have you been in that role?</p> <p>11 A. I was promoted in that role in November of</p> <p>12 2022.</p> <p>13 Q. Okay. Thank you. Were you with the Forensic</p> <p>14 Audit Division before that?</p> <p>15 A. I was.</p> <p>16 Q. What was your role then?</p> <p>17 A. I served as the attorney to the division.</p> <p>18 Q. And when did you begin that?</p> <p>19 A. April of 2022.</p> <p>20 Q. Is that when you first joined the audit</p> <p>21 division?</p> <p>22 A. It is.</p> <p>23 Q. Okay. So I am going to mark Exhibit 23.</p> <p>24 (Exhibit 23 marked.)</p> <p>25 Q. (BY MR. STEWART) Do you recognize this</p>

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<p style="text-align: right;">Page 10</p> <p>1 document?</p> <p>2 A. I do.</p> <p>3 Q. What is it?</p> <p>4 A. It appears to be a copy of our final report</p> <p>5 issued in December of 2022.</p> <p>6 Q. Thank you. So what were the goals of the</p> <p>7 forensic audit for which this is the final report?</p> <p>8 A. I believe that's reflected in the executive</p> <p>9 summary.</p> <p>10 Q. Is the executive summary complete and accurate</p> <p>11 as to the goals of the audit?</p> <p>12 A. Yes.</p> <p>13 Q. Who was involved in designing the audit?</p> <p>14 A. I don't understand your question.</p> <p>15 Q. So what individuals within the audit division</p> <p>16 were involved in designing the, shall I say,</p> <p>17 investigative task of the audit?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. Can you specify what you mean by design?</p> <p>20 Q. (BY MR. STEWART) Sure. So I guess to say,</p> <p>21 when you determined -- or as the Forensic Audit Division</p> <p>22 was determining, sort of, what to examine and how they</p> <p>23 were going to examine it, who was involved in those</p> <p>24 conversations?</p> <p>25 A. I was involved in those conversations.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Were there other types of records you are</p> <p>2 referring to there?</p> <p>3 A. Not that I am aware of.</p> <p>4 Q. Were those records the counties required to</p> <p>5 maintain or additional materials as well?</p> <p>6 A. I want to correct something.</p> <p>7 Q. Sure.</p> <p>8 A. We did get some records from Tarrant County for</p> <p>9 2022. They submitted those in error.</p> <p>10 Q. Okay. But then going back to the previous</p> <p>11 question, were those all records the counties were</p> <p>12 required to maintain, or were there additional materials</p> <p>13 they had that were also provided to you?</p> <p>14 A. They were records they were required to</p> <p>15 maintain, for the most part, or things that they kept as</p> <p>16 a regular practice.</p> <p>17 Q. Got it. Were there any -- besides your review</p> <p>18 of the records provided by the counties, were there any</p> <p>19 specific issues with the 2020 general election that were</p> <p>20 identified as a reason for the audit?</p> <p>21 MS. HUNKER: Objection. Form.</p> <p>22 A. Can you maybe specify what you mean by that?</p> <p>23 Q. (BY MR. STEWART) Yeah. Was there some sort of</p> <p>24 imminence for the audit, either an error or mistake you</p> <p>25 noticed or something that you thought merit an</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Who else?</p> <p>2 A. Our director.</p> <p>3 Q. Anyone else?</p> <p>4 A. Auditors.</p> <p>5 Q. Anyone outside the division involved in those</p> <p>6 conversations?</p> <p>7 A. The secretary.</p> <p>8 Q. The secretary. Anyone outside the Secretary of</p> <p>9 State's office involved in those conversations?</p> <p>10 A. No.</p> <p>11 Q. Okay. How were the topics for the audit</p> <p>12 chosen?</p> <p>13 A. They were data driven.</p> <p>14 Q. And by data driven, what does that mean?</p> <p>15 A. Based on the records that were provided, we</p> <p>16 evaluated what areas had auditable points.</p> <p>17 Q. And by the records you provided, provided by</p> <p>18 whom?</p> <p>19 A. Provided by the counties to -- directly to the</p> <p>20 Forensic Audit Division or provided by the counties to</p> <p>21 the elections division and then passed on to our</p> <p>22 division.</p> <p>23 Q. Were those records from the 2022 general</p> <p>24 election?</p> <p>25 A. Yes, they were.</p>	<p style="text-align: right;">Page 13</p> <p>1 investigation that was a reason for the audit?</p> <p>2 A. The reason for the audit is reflected in the</p> <p>3 executive summary.</p> <p>4 Q. Okay.</p> <p>5 A. To ensure that all Texas voters can have</p> <p>6 confidence in the election systems in our state.</p> <p>7 Q. Was there a feeling that Texas voters did not</p> <p>8 have confidence?</p> <p>9 MS. HUNKER: Objection. Form.</p> <p>10 A. I am not aware of the feelings that were</p> <p>11 present. I am just here to testify about what's in the</p> <p>12 report.</p> <p>13 Q. (BY MR. STEWART) Fair. The question I am</p> <p>14 trying to ask is, was that statement included in the</p> <p>15 audit report based on an understanding in the Secretary</p> <p>16 of State's office that voters did not have confidence in</p> <p>17 the 2020 general election?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. This -- the audit was to ensure that Texas</p> <p>20 voters can have confidence in the election systems in</p> <p>21 our state.</p> <p>22 Q. (BY MR. STEWART) Well, did the Secretary of</p> <p>23 State's office and the Forensic Audit Division have any</p> <p>24 specific information that voters did not have</p> <p>25 confidence?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. I don't believe the agency has an official 2 position on that.</p> <p>3 Q. Okay. Were there any information requests sent 4 to counties that were not reflected in the final report?</p> <p>5 A. When you say information requests, what do you 6 mean?</p> <p>7 Q. So let me back up then. You -- you mentioned 8 that the audit was based on data and records sent to the 9 audit division by the counties, correct?</p> <p>10 A. Sent to our division by the counties or sent to 11 the election division and then provided to us.</p> <p>12 Q. Okay. So I will broadly refer to the Secretary 13 of State's office, to be clear, because those are both 14 under the Secretary of State, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Was that all items that were reported by 17 the counties in due course, or were there items 18 specifically requested by the Secretary of State's 19 office for the purpose of the audit?</p> <p>20 A. Some of the items reviewed were provided in due 21 course. Some of the items reviewed were provided in 22 response to the request.</p> <p>23 Q. Okay. And were there any specifically 24 requested items by the Secretary of State's office that 25 aren't reflected -- that their requests are not</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No. The audit division's conclusions are 2 reflected in the report.</p> <p>3 Q. Okay. Which entities were being evaluated in 4 the audit report?</p> <p>5 A. When you say entities, do you mean counties?</p> <p>6 Q. Yes.</p> <p>7 A. The counties were Collin County, Dallas County, 8 Harris County, and Tarrant County.</p> <p>9 Q. Was any state governmental entity, other than 10 those four counties, evaluated by the report?</p> <p>11 A. What do you mean by state governmental entity?</p> <p>12 Q. Sure. Whether it is at the state level, county 13 level, municipal level. So taking state agencies, like 14 the AOG's office or the SOS, other counties, or, you 15 know, subdivision of counties, municipalities. Was 16 anything other than those four counties you've 17 identified evaluated by the audit report?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. I still don't understand the question.</p> <p>20 Q. (BY MR. STEWART) Sure. Are there any 21 conclusions about the performance of the Secretary of 22 State's office in the 2020 general election in this 23 audit report?</p> <p>24 A. We did not evaluate the Secretary of State's 25 office.</p>
<p style="text-align: right;">Page 15</p> <p>1 reflected somewhere in the body of this report?</p> <p>2 A. I am not sure what you mean by that.</p> <p>3 Q. I guess I am saying, was -- was each 4 information request you made, like a cataloging of it, 5 reflected somewhere in this report?</p> <p>6 A. Information requests are not cataloged in the 7 report.</p> <p>8 Q. So there are -- are there information you 9 received from counties that didn't lead into the final 10 audit report?</p> <p>11 MS. HUNKER: Objection. Form.</p> <p>12 A. We received 369 gigabytes of data, and this is 13 a 359-page report.</p> <p>14 Q. (BY MR. STEWART) Fair.</p> <p>15 A. Not everything is included in the report.</p> <p>16 Q. Let's talk about more categorically. So were 17 there sort of areas -- you know, there's a list of 18 topics here. So sort of topically, was there anything 19 investigated that did not -- or audited, I should say, 20 that did not end up in the final report?</p> <p>21 A. When you say audited that did not end up in the 22 final report, what do you mean by that?</p> <p>23 Q. Let me rephrase it this way. Were there any 24 conclusions the audit division came to that were not 25 included in the final record?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Did you evaluate the Attorney General's office?</p> <p>2 A. We did not evaluate the Attorney General's 3 office.</p> <p>4 Q. Did you evaluate any counties other than the 5 four counties identified in the report?</p> <p>6 A. In the report, we only identified the four 7 counties, Collin, Dallas, Harris, and Tarrant County.</p> <p>8 Q. And those were the only counties evaluated by 9 the report?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. Was the performance of early voting 12 ballot boards in those counties evaluated?</p> <p>13 MS. HUNKER: Objection. Form.</p> <p>14 A. What do you mean by performance?</p> <p>15 Q. (BY MR. STEWART) Well, let me rephrase it. 16 Were aspects of the activities of the early voting 17 ballot boards in those counties evaluated?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. What do you mean by evaluated?</p> <p>20 Q. (BY MR. STEWART) Sure. Audited. Did you 21 audit any aspect of, you know, how early voting ballot 22 boards performed their duties?</p> <p>23 MS. HUNKER: Same objection.</p> <p>24 A. When you say audit, can you be more specific?</p> <p>25 Q. (BY MR. STEWART) Yeah. All the activities</p>

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<p style="text-align: right;">Page 18</p> <p>1 conducted in order to prepare this final report.</p> <p>2 MS. HUNKER: Objection. Form.</p> <p>3 A. I still don't understand the question.</p> <p>4 Q. (BY MR. STEWART) Sure. Did you send any</p> <p>5 information requests specifically regarding early voting</p> <p>6 ballot boards?</p> <p>7 A. We did send those type of requests.</p> <p>8 Q. And did you come to any conclusions about the</p> <p>9 performance of early voting ballot boards?</p> <p>10 A. We did not evaluate the performance of early</p> <p>11 voting ballot boards.</p> <p>12 Q. Did you evaluate the performance of any</p> <p>13 signature verification committees?</p> <p>14 MS. HUNKER: Objection. Form.</p> <p>15 A. What do you mean by performance?</p> <p>16 Q. (BY MR. STEWART) I guess I put that back to</p> <p>17 you. When you say you did not evaluate the performance</p> <p>18 of early voting ballot boards, what did you mean by</p> <p>19 that?</p> <p>20 A. We didn't evaluate how they did things.</p> <p>21 Q. Okay.</p> <p>22 A. We evaluated the processes and procedures that</p> <p>23 each county used.</p> <p>24 Q. And by evaluated, were you saying whether they</p> <p>25 were good or bad, or what do you mean by evaluated in</p>	<p style="text-align: right;">Page 20</p> <p>1 in place for tracking some rejected ABBMs. This refers</p> <p>2 to the pre-Senate Bill 1 system, correct?</p> <p>3 MS. HUNKER: Objection. Form.</p> <p>4 A. The law contained in the code -- for the law</p> <p>5 contained in the report that we were evaluating the</p> <p>6 counties on was pre-SB1.</p> <p>7 Q. (BY MR. STEWART) Okay.</p> <p>8 A. That existed in 2020.</p> <p>9 Q. So that's generally applicable to the audit,</p> <p>10 right, that this all from before SB1?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Did you make any conclusions in the</p> <p>13 audit report about how the processes or procedures</p> <p>14 evaluated would comply with SB1?</p> <p>15 A. We did not.</p> <p>16 Q. Okay. So in the next paragraph, it says, one</p> <p>17 of the limitations with counties that are not online</p> <p>18 with the TEAM database is the fact that the counties</p> <p>19 must provide uploads to update the data that populates</p> <p>20 TEAM. And then it says, there could be delays between</p> <p>21 the counties reporting and upload to the database,</p> <p>22 attributable to the action of the counties, actions of</p> <p>23 the counties, or their offline vendors. This can</p> <p>24 negatively affect the accuracy of the records contained</p> <p>25 in TEAM. Did I read that correctly?</p>
<p style="text-align: right;">Page 19</p> <p>1 this context?</p> <p>2 A. We asked questions, and then we reported on the</p> <p>3 procedures.</p> <p>4 Q. Okay. And so using that same definition of</p> <p>5 performance you've used for the early voting ballot</p> <p>6 boards, did you evaluate the performance of the</p> <p>7 signature verification committees?</p> <p>8 A. We asked questions for the counties that has</p> <p>9 signature verification committees as to how they did</p> <p>10 things and reported on those procedures.</p> <p>11 Q. Okay. I want to turn to the mail voting</p> <p>12 section of this audit report, which I believe starts on</p> <p>13 Page 198. And just so we are clear for the record, the</p> <p>14 word "TEAM" appears in this report. Does that refer to</p> <p>15 the Texas Election Administration Management database?</p> <p>16 A. It does.</p> <p>17 Q. Okay. And then when you use -- not you, but</p> <p>18 when the SOS uses ABBM in this report, is that</p> <p>19 application for ballot by mail?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And BBM is just the ballot by mail, correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. I am going to turn quickly to Page 210</p> <p>24 then. The second paragraph, it says, the counties were</p> <p>25 uniform in that they did not have a system or spreadsheet</p>	<p style="text-align: right;">Page 21</p> <p>1 A. You did.</p> <p>2 Q. Okay. Were all of the audited counties offline</p> <p>3 counties?</p> <p>4 A. Yes, they were all offline counties.</p> <p>5 Q. Did all of them have delays in uploading</p> <p>6 records to TEAM?</p> <p>7 A. That would not be within my knowledge.</p> <p>8 Q. Okay. Do you know who would know that?</p> <p>9 A. Somebody who has more knowledge of the TEAM</p> <p>10 system.</p> <p>11 Q. Would it be someone within the Forensic Audit</p> <p>12 Division who would know that?</p> <p>13 A. No.</p> <p>14 Q. Was any aspect of TEAM evaluated or considered</p> <p>15 during the audit?</p> <p>16 A. What do you mean by that?</p> <p>17 Q. Sure. Was the performance of TEAM evaluated?</p> <p>18 A. Could you specify --</p> <p>19 MS. HUNKER: Objection. Form.</p> <p>20 Q. (BY MR. STEWART) Yeah. Was there anything</p> <p>21 about the accuracy of the records in TEAM that was</p> <p>22 evaluated in the course of the audit?</p> <p>23 A. We were not evaluating TEAM. However, if</p> <p>24 somebody's vote history, as uploaded by the county, was</p> <p>25 inaccurate in TEAM, that's tied to the voter</p>

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<p style="text-align: right;">Page 22</p> <p>1 participating history that's uploaded by the county.</p> <p>2 Q. Okay. Did you find instances where the vote</p> <p>3 history was inaccurate in TEAM?</p> <p>4 A. Yes.</p> <p>5 Q. How frequently did that occur?</p> <p>6 MS. HUNKER: Objection. Form.</p> <p>7 A. The frequency is not in the report.</p> <p>8 Q. (BY MR. STEWART) For the purposes of preparing</p> <p>9 this report, did the Forensic Audit Division look into</p> <p>10 mail ballot impersonation fraud?</p> <p>11 A. What do you mean by that?</p> <p>12 Q. Did you conduct any activities or investigation</p> <p>13 that would reveal mail ballot impersonation fraud?</p> <p>14 MS. HUNKER: Objection. Form.</p> <p>15 A. What type of activities?</p> <p>16 Q. (BY MR. STEWART) I guess that's my question to</p> <p>17 you. Is that something that was being audited? Was</p> <p>18 that within the scope -- let me withdraw that question.</p> <p>19 Was mail ballot fraud within the scope of</p> <p>20 this audit?</p> <p>21 MS. HUNKER: Objection. Form.</p> <p>22 A. I am not sure I understand that question.</p> <p>23 Q. (BY MR. STEWART) Sure. Was -- did you reach</p> <p>24 any conclusions regarding the existence or nonexistence</p> <p>25 of mail ballot fraud in any of these counties?</p>	<p style="text-align: right;">Page 24</p> <p>1 or not mail voter fraud occurred in 2020 for those four</p> <p>2 counties.</p> <p>3 Q. (BY MR. STEWART) I want to look at this</p> <p>4 section on Dallas County, which is on Page 214. And I</p> <p>5 think in that sentence you mentioned difficulties in</p> <p>6 processing the high volume of mail ballots; is that</p> <p>7 correct?</p> <p>8 A. Yes. Dallas County experienced difficulties in</p> <p>9 processing the high volume of ballots by mail due to</p> <p>10 staff turnover that occurred just prior to the 2020</p> <p>11 general election.</p> <p>12 Q. All right. Is there any other reason you</p> <p>13 identified that wasn't included in here, or is that sort</p> <p>14 of the only conclusion made as to the reason for</p> <p>15 difficulty in processing mail ballots in 2020 in Dallas?</p> <p>16 A. I'm sorry. Can you rephrase that?</p> <p>17 Q. Sure. So this mentions the conclusion, you</p> <p>18 know, it gives the reason why there was difficulty in</p> <p>19 processing the high volume of mail ballots. Was there</p> <p>20 any reasons that you discovered that weren't reflected</p> <p>21 in the final report?</p> <p>22 A. No. There's additional reasons reflected on</p> <p>23 214, but not that are absent from the report.</p> <p>24 Q. Nothing that's not in the report?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 23</p> <p>1 MS. HUNKER: Objection. Form.</p> <p>2 A. We did not reach any conclusions as to whether</p> <p>3 or not there was mail ballot fraud.</p> <p>4 Q. (BY MR. STEWART) Did you assess any procedures</p> <p>5 that might identify whether or not there was mail ballot</p> <p>6 fraud in any of these counties?</p> <p>7 A. Procedures by whom?</p> <p>8 Q. By the counties.</p> <p>9 A. I am not sure that procedures by the counties</p> <p>10 would indicate whether or not there was mail voter</p> <p>11 fraud.</p> <p>12 Q. Okay. Did you assess any procedures by any</p> <p>13 other entity that might indicate whether or not there</p> <p>14 was mail voter fraud?</p> <p>15 A. No. We only assessed the four counties.</p> <p>16 Q. Okay. And so did -- you did assess county</p> <p>17 procedures, though, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And so I am correct in saying -- your testimony</p> <p>20 here today is that none of those procedures would</p> <p>21 indicate positively or negatively the existence of mail</p> <p>22 voter fraud?</p> <p>23 MS. HUNKER: Objection. Form. Misstates</p> <p>24 testimony.</p> <p>25 A. Procedures themselves did not indicate whether</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. And then turning to Harris County, which</p> <p>2 is on 216, there's a -- the second sentence here says,</p> <p>3 the BBM process was described to FAD as chaotic. Do you</p> <p>4 know who made that description as chaotic?</p> <p>5 A. It was one of the witnesses or individuals that</p> <p>6 we spoke to during the course of the audit.</p> <p>7 Q. Do you know if that would be someone who worked</p> <p>8 for the Harris County elections office?</p> <p>9 A. Honestly, I can't remember.</p> <p>10 Q. When it says the BBM process, is there any</p> <p>11 specific processes it is referring to?</p> <p>12 A. I think it is the whole process.</p> <p>13 Q. And it says one of the reasons attributed to</p> <p>14 this description was the volume of ballots by mail.</p> <p>15 Were there any other reasons attributed to the</p> <p>16 description of the process as chaotic that aren't</p> <p>17 reflected here?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. There aren't any other reasons reflected in the</p> <p>20 report.</p> <p>21 Q. (BY MR. STEWART) Are there any reasons that</p> <p>22 are not reflected in the report but of which the</p> <p>23 Forensic Audit Division is aware?</p> <p>24 A. What is in the report is what the final</p> <p>25 determinations were.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. Was there any evaluation of ABBM 2 processes in Harris County? 3 A. What do you mean when you say evaluation? 4 Q. Sure. Was there any auditing of ABBM processes 5 in Harris County? 6 A. We were not able to discuss the ABBM processes 7 in Harris County because Harris County staff was not 8 made available regarding that matter. 9 Q. Looking at now the last paragraph on 216 but 10 then rolls over into 217. On the first line of 217, it 11 describes questionable carrier envelope in the sentence. 12 Any questionable carrier envelope is removed from a 13 batch and wrapped in a separate sheet for further 14 review. Do you see where I am? 15 A. Yes, sir. 16 Q. What is meant by questionable carrier envelope 17 in that sentence? 18 A. From our understanding out in the field, 19 questionable carrier envelope could be one that maybe 20 didn't have a matching signature or there was something 21 that needed to go on for further review by a ballot 22 board or another TEAM. Harris County had a very 23 specific system that used multiple TEAMS. 24 Q. Is the -- is the description as questionable 25 there meant to indicate potential fraud?</p>	<p style="text-align: right;">Page 28</p> <p>1 there any indication either way of whether a signature 2 itself can be potentially indicative of fraud in the 3 audit report? 4 A. We did not evaluate whether signatures 5 themselves could be potentially indicative of fraud. 6 Q. Okay. All right. Turning to Page 224, there 7 is a section that begins, reason for requesting ballot 8 by mail. I would say that -- is it correct to 9 characterize that in each county in which you had data, 10 the FAD determined that at least some voters who were 11 not eligible were permitted to vote by mail; is that 12 correct? 13 A. So in the data available from the counties, we 14 were able to determine there were some individuals that 15 were not entitled to vote by mail for the reason of age 16 that did appear to have received a ballot. 17 Q. Did the audit division conduct any analysis of 18 the root cause of why that occurred? 19 A. Yes. 20 Q. And what was the audit division's 21 determination? 22 A. There were multiple reasons. 23 Q. And what were they? 24 A. One of the reasons was miscoding by the county. 25 Q. What other reasons?</p>
<p style="text-align: right;">Page 27</p> <p>1 MS. HUNKER: Objection. Form. 2 A. The description of questionable is the word 3 that was used by the witnesses or individuals we were 4 able to speak with. 5 Q. (BY MR. STEWART) So you are reflecting exactly 6 what was said by the individuals interviewed? 7 A. I wouldn't say exactly because obviously things 8 have been paraphrased. But that was the term that was 9 used, and they used in other counties as well, 10 questionable or questioned. 11 Q. Did the Forensic Audit Division have any 12 understanding that the term "questionable" meant a 13 ballot could be fraudulent? 14 A. We didn't have an understanding of that. 15 Questionable usually meant that they couldn't agree, so 16 they asked another set of eyes to look at it. 17 Q. Couldn't agree on what specifically? 18 A. The signatures. 19 Q. The signature. Is a signature itself 20 potentially indicative of fraud? 21 MS. HUNKER: Objection. Form. And how you 22 phrase it is outside the scope of her deposition topics. 23 A. I don't know that I can speak to that. It is 24 not reflected in the report. 25 Q. (BY MR. STEWART) Let me ask it that way. Is</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Another reason would be attaching a record, for 2 example, in a junior, senior situation, to the wrong 3 individual. So it -- the record may have reflected that 4 a ballot by mail was issued to the junior when in fact 5 the senior had requested it, and the senior was the one 6 who wanted to vote by mail. 7 Q. Were there any reasons that would have been 8 based on an action of the voter as opposed to county 9 election officials? 10 A. Yes. 11 Q. What were those? 12 A. Not including information on the application 13 for a ballot by mail that would have indicated they were 14 eligible to vote by mail. 15 Q. Any others? 16 A. Yes. For example -- let's see here. On 17 Page 226, 42 voters had applications that requested to 18 vote by mail due to being 65 or older, but date of birth 19 records indicated the voters were not 65. 20 Q. Any reasons that aren't reflected here on the 21 report? 22 A. No. 23 Q. Turning to Page 229. It appears that with 24 respect to Dallas County you identified an issue 25 described here as bulk applications for ballot by mail,</p>

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<p style="text-align: right;">Page 30</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Can you describe just briefly for me what that</p> <p>4 issue was?</p> <p>5 A. We identified from their record that they had</p> <p>6 boxes containing applications received in bundle for</p> <p>7 ballots by mail.</p> <p>8 Q. Did you determine whether those applications</p> <p>9 received in bundle for ballots by mail violated state</p> <p>10 law?</p> <p>11 A. We do not make those determinations.</p> <p>12 Q. Okay. Did you refer this matter to the</p> <p>13 Attorney General's office?</p> <p>14 MS. HUNKER: Objection. I am going to</p> <p>15 raise investigative privilege. This is not saying you</p> <p>16 can't answer, but I am going to advise you to only</p> <p>17 answer information that either would be publicly</p> <p>18 available or would not compromise the integrity of the</p> <p>19 investigation as well as any specific information or</p> <p>20 details that would be related to an ongoing prosecution</p> <p>21 or one that was referred.</p> <p>22 MR. STEWART: Just for the clarity of the</p> <p>23 record, would that include information whether it was</p> <p>24 referred at all? Just a yes or no.</p> <p>25 MS. HUNKER: If she is talking about</p>	<p style="text-align: right;">Page 32</p> <p>1 the source of 55 ABBMs submitted with the same</p> <p>2 individual's name as the assistant on all 55</p> <p>3 applications. Did the audit division speak with that</p> <p>4 assistant?</p> <p>5 A. We did not.</p> <p>6 Q. Did you speak with any of the voters?</p> <p>7 A. We did not.</p> <p>8 Q. Did you visit that facility?</p> <p>9 A. We did not.</p> <p>10 Q. Okay. Did you determine whether this -- did</p> <p>11 you attempt to determine, let me say, whether the same</p> <p>12 assistant also attempted to assist the same voters</p> <p>13 with their ballots?</p> <p>14 A. We attempted to locate the carrier envelopes</p> <p>15 associated with the voters with that subset of data.</p> <p>16 Q. Did the Forensic Audit Division find any</p> <p>17 evidence that the ABBMs at issue were not personally</p> <p>18 signed by the voters or at their direction?</p> <p>19 A. What do you mean by evidence?</p> <p>20 Q. Did you conduct any investigation into whether</p> <p>21 the voters, the 55 voters identified, personally signed</p> <p>22 these ABBMs, or they were signed by an assistant at</p> <p>23 their direction?</p> <p>24 A. We just reviewed the records.</p> <p>25 Q. Okay. All right. I want to turn quickly to</p>
<p style="text-align: right;">Page 31</p> <p>1 specifics, yes. If she is talking about like the</p> <p>2 generality of like a subject area --</p> <p>3 MR. STEWART: Okay.</p> <p>4 MS. HUNKER: -- then no. I just want to</p> <p>5 make sure she doesn't get into the nitty-gritty.</p> <p>6 MR. STEWART: Yeah. I just want to</p> <p>7 understand the line.</p> <p>8 A. The Office of the Attorney General had agreed</p> <p>9 to assist with providing additional information so that</p> <p>10 occurrence in Dallas County could be referred to the</p> <p>11 local authorities for investigation and potential</p> <p>12 prosecution.</p> <p>13 Q. (BY MR. STEWART) I see. Do you know whether</p> <p>14 there have been any prosecutions based on this issue</p> <p>15 identified in this report here?</p> <p>16 A. That is not within the scope of my knowledge.</p> <p>17 Q. Okay. Did the Forensic Audit Division speak</p> <p>18 with the -- any individuals involved or described here?</p> <p>19 A. Can you be more specific?</p> <p>20 Q. Sure. So I think it identifies an assistant</p> <p>21 who signed multiple ABBMs as an assistant. Did you</p> <p>22 speak with that individual?</p> <p>23 A. Which page are we on?</p> <p>24 Q. I think we are on 230. One address in</p> <p>25 particular identified as an assisted living facility was</p>	<p style="text-align: right;">Page 33</p> <p>1 the voter register topic, which is back on Page 42.</p> <p>2 MR. STEWART: Where are we on record time?</p> <p>3 MS. HUNKER: You said 42?</p> <p>4 MR. STEWART: 42, yes.</p> <p>5 MS. HUNKER: I have you at five minutes</p> <p>6 remaining.</p> <p>7 MR. STEWART: What's that?</p> <p>8 Q. (BY MR. STEWART) Actually, you know what, I</p> <p>9 asked this question already, so I don't think we need to</p> <p>10 go there. Actually, I will ask briefly about the</p> <p>11 complaint section beginning on 351, but I don't think we</p> <p>12 need to turn there. I just want to ask. Did the</p> <p>13 Forensic Audit Division analyze the substance of any of</p> <p>14 the complaints as to whether they were accurate or not?</p> <p>15 MS. HUNKER: Objection. Form.</p> <p>16 A. We did not evaluate the accuracy of the</p> <p>17 complaints.</p> <p>18 Q. (BY MR. STEWART) Okay. Who reviewed the audit</p> <p>19 report before it was filed?</p> <p>20 A. I reviewed the report.</p> <p>21 Q. Did anyone else?</p> <p>22 A. Yes.</p> <p>23 Q. Who else reviewed it?</p> <p>24 A. Our director.</p> <p>25 Q. Anyone else outside the audit division review</p>

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<p style="text-align: right;">Page 34</p> <p>1 it before it was finalized?</p> <p>2 A. The secretary.</p> <p>3 Q. Anyone outside the Secretary of State's office</p> <p>4 review it before it was finalized?</p> <p>5 A. I believe the governor's office reviewed parts</p> <p>6 of it.</p> <p>7 Q. Did the governor's office recommend any</p> <p>8 changes?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. Were they substantive as to the conclusions?</p> <p>11 A. No.</p> <p>12 Q. What was the nature of those changes?</p> <p>13 A. I do not recall. It's been several months</p> <p>14 since the nature of those changes were.</p> <p>15 Q. Do you know who would know that?</p> <p>16 A. I can probably try to find an answer for you on</p> <p>17 that.</p> <p>18 Q. I would appreciate that. Thank you.</p> <p>19 A. Okay.</p> <p>20 Q. Was there anyone -- leaving aside the governor</p> <p>21 and the governor's office, was there anyone outside the</p> <p>22 Secretary of State's office who requested or directed</p> <p>23 that conclusions be changed before the audit report was</p> <p>24 finalized?</p> <p>25 MS. HUNKER: Objection. Form.</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. STEWART: With that, I have no further</p> <p>2 questions. I don't know if anyone on the Zoom has a</p> <p>3 question that will take one minute.</p> <p>4 All right. Thank you. I will pass the</p> <p>5 witness.</p> <p>6 THE WITNESS: I think one person just</p> <p>7 popped up. But you are muted, sir.</p> <p>8 MS. PERELAS: No questions here.</p> <p>9 MR. GENECEIN: Am I unmuted? Can you hear</p> <p>10 me?</p> <p>11 MR. STEWART: You are, Victor.</p> <p>12 MR. GENECEIN: Good.</p> <p>13 EXAMINATION</p> <p>14 BY MR. GENECEIN:</p> <p>15 Q. Ms. Doyer, my name is Victor Genecin. I am a</p> <p>16 lawyer with the NAACP Legal Defense Fund, and I</p> <p>17 represent the Houston Area Urban League Plaintiff, and I</p> <p>18 just have a few questions for you. I would like to draw</p> <p>19 your attention to Page 6 of Exhibit 23, the section</p> <p>20 labeled key findings.</p> <p>21 MS. HUNKER: So I am going to interject.</p> <p>22 We have reached the seven-hour limit for the 30(b)(6)</p> <p>23 deposition, and so I am going to ask that we go off the</p> <p>24 record and close out the deposition.</p> <p>25 (Off the record.)</p>
<p style="text-align: right;">Page 35</p> <p>1 A. No.</p> <p>2 Q. (BY MR. STEWART) Okay. Were there any</p> <p>3 topics -- topical areas that were included in the audit</p> <p>4 design but are not reflected in the final report?</p> <p>5 A. What do you mean by audit design?</p> <p>6 Q. Sure. So when you were coming up with the</p> <p>7 scope of the audit and the activities that would be</p> <p>8 undertaken to, you know, evaluate the counties'</p> <p>9 processes, were there subject areas that were planned</p> <p>10 for evaluation but ultimately were not included in the</p> <p>11 final report?</p> <p>12 A. Yes.</p> <p>13 Q. What were those?</p> <p>14 A. We wanted to look at, for example, poll worker</p> <p>15 staffing at polling locations.</p> <p>16 Q. Anything related to mail balloting?</p> <p>17 A. Like I said, it was data driving. So if the</p> <p>18 data was there, we were able to evaluate and make a</p> <p>19 report of the conclusions and decisions.</p> <p>20 Q. So there is nothing specific you can recall</p> <p>21 that related to mail balloting that was sort of dropped</p> <p>22 from the scope of the report between the audit design</p> <p>23 and the final report?</p> <p>24 A. No.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 37</p> <p>1 MS. HUNKER: After consulting with my</p> <p>2 client, we've agreed to give an additional 15 minutes so</p> <p>3 that the OCA greater Plaintiff's counsel can ask his</p> <p>4 line of questions.</p> <p>5 MR. GENECEIN: Thank you very much.</p> <p>6 Q. (BY MR. GENECEIN) Ms. Doyer, I would like to</p> <p>7 draw your attention to Page 6 of the -- of Exhibit 23,</p> <p>8 section called key findings. Are you there?</p> <p>9 A. I am.</p> <p>10 Q. And specifically the next to last sentence of</p> <p>11 that section reads, many of the irregularities observed</p> <p>12 in the audit are less likely to occur in future</p> <p>13 elections due to legislative changes made following the</p> <p>14 2020 general election including Senate Bill 1. Did I</p> <p>15 read that section correctly?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What is the basis in the audit for the sentence</p> <p>18 that I just read?</p> <p>19 A. There were many improvements that came</p> <p>20 legislatively that can preclude the volume in some of</p> <p>21 what we saw in the records that we reviewed in those</p> <p>22 four counties.</p> <p>23 Q. What are those changes?</p> <p>24 A. The mail ballot tracker, for example.</p> <p>25 Q. Any others?</p>


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<p>1 A. Yes. Senate Bill 1 added Section 127, I want</p> <p>2 to say, 009 that requires counties to submit a</p> <p>3 tabulation audit log to the Secretary of State's office.</p> <p>4 Q. Anything else?</p> <p>5 A. The addition of the requirement for counties to</p> <p>6 put zero tapes at the polling location.</p> <p>7 Q. Anything else?</p> <p>8 A. The identifiers on the carrier envelopes would</p> <p>9 preclude issues like we saw in Dallas where the --</p> <p>10 Dallas and Collin where a voter had been attached to a</p> <p>11 ballot by mail that had the identifiers been included,</p> <p>12 then perhaps the voter record would have been more</p> <p>13 accurate and the correct voter would have been reflected</p> <p>14 as having voted by mail.</p> <p>15 Q. Anything else?</p> <p>16 A. Yeah, the reconciliation forms.</p> <p>17 Q. What are those?</p> <p>18 A. There are two forms that must be filled out.</p> <p>19 One will include unofficial results and one would</p> <p>20 include official records. And -- but it gives a</p> <p>21 county-wide look at reconciling ballots versus voters so</p> <p>22 it can identify any issues at a high level early on that</p> <p>23 can be addressed.</p> <p>24 Q. Anything else?</p> <p>25 A. It is not fully implemented yet, but the</p>	<p>1 voter appeared to have voted and had vote history. So</p> <p>2 hopefully the corrective action process would eliminate</p> <p>3 some of those irregularities.</p> <p>4 Q. Are there any other irregularities that would</p> <p>5 be alleviated by Senate Bill 1?</p> <p>6 A. There may be. That's -- those are the ones I</p> <p>7 can recall off the top of my head.</p> <p>8 _____</p> <p>9 Q. Why don't we leave a blank in the transcript,</p> <p>10 and if you are able to think of any others when you</p> <p>11 review the transcript and sign it, you will add them in.</p> <p>12 All right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Thanks very much.</p> <p>15 MR. GENECHIN: I will pass the witness.</p> <p>16 THE WITNESS: Thank you.</p> <p>17 MS. HUNKER: We can close out then the</p> <p>18 deposition and dismiss the witness, and we ask for read</p> <p>19 and sign.</p> <p>20 (Proceedings ended at 4:03 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 paper-based audit trail that's going to be required by</p> <p>2 virtue of SB1 that will significantly assist with any</p> <p>3 issues that we saw, for example, in Harris County with</p> <p>4 the DREs.</p> <p>5 Q. What were those issues?</p> <p>6 A. One of the issues was the lack of the paper</p> <p>7 ballot trail, which, because there was no way to access</p> <p>8 the content of the mobile ballot boxes, we were unable</p> <p>9 to verify the contents of those mobile ballot boxes.</p> <p>10 The equipment had been destroyed. There was no way to</p> <p>11 access them. And there was a significant chain of</p> <p>12 custody issue that affected, you know, the whole</p> <p>13 process. And I think there were at least 1,084 ballots</p> <p>14 that lacked proper chain of custody.</p> <p>15 Q. Are there any other irregularities you observed</p> <p>16 in the audit that are less likely to occur at future</p> <p>17 elections because of legislative changes made following</p> <p>18 the 2020 general election including Senate Bill 1?</p> <p>19 A. The corrective action process will -- should</p> <p>20 help with mail ballots. That didn't exist prior to</p> <p>21 Senate Bill 1. Harris County had a sort of informal</p> <p>22 review process that they engaged in, which was helpful</p> <p>23 in assisting the voters. Any irregularity we observed,</p> <p>24 however, was that there were several instances where</p> <p>25 Harris County marked a ballot as unresolved, yet that</p>	<p>1 CHANGES AND SIGNATURE</p> <p>2 PAGE/LINE CHANGE REASON</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

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<p>1 I, JACQUELINE DOYER, have read the 2 foregoing deposition and hereby affix my signature that 3 same is true and correct, except as noted above. 4 _____ 5 JACQUELINE DOYER 6 7 THE STATE OF TEXAS) 8 COUNTY OF _____) 9 Before me, _____, on 10 this day personally appeared JACQUELINE DOYER, known to 11 me (or proved to me under oath or through 12 _____) (description of identity card 13 or other document) to be the person whose name is 14 subscribed to the foregoing instrument and acknowledged 15 to me that they executed the same for the purposes and 16 consideration therein expressed. 17 18 Given under my hand and seal of office 19 this _____ day of _____, 2023. 20 21 _____ 22 NOTARY PUBLIC IN AND FOR 23 THE STATE OF TEXAS 24 MY COMMISSION EXPIRES: 25 _____</p>	<p>1 Subscribed and sworn to on this _____ day 2 of _____, 2023. 3 4 5 6 7  8 JAZZMEN C. CANALES, Texas CSR 9344 9 Expiration Date: 04/30/2025 10 MAGNA LEGAL SERVICES 11 Firm Registration No. 633 12 1635 Market Street 13 Suite 800 14 Philadelphia, Pennsylvania 19103 15 Telephone: 866-624-6621 16 17 18 19 20 21 22 23 24 25</p>
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF TEXAS 3 SAN ANTONIO DIVISION 4 LA UNION DEL PUEBLO) 5 ENTERO, ET AL.,) 6 Plaintiffs,) 7 VS.) CIVIL ACTION NO. 8) 5:21-CV-844 (XR) 9 STATE OF TEXAS, ET AL.,) 10 Defendants.) 11 12 REPORTER'S CERTIFICATION 13 ORAL DEPOSITION OF 14 JACQUELINE DOYER 15 MARCH 29, 2023 16 17 I, JAZZMEN CANALES, Certified Shorthand 18 Reporter in and for the State of Texas, hereby certify 19 to the following: 20 That the witness, Jacqueline Doyer, was 21 duly sworn by the officer and that the transcript of the 22 oral deposition is a true record of the testimony given 23 by the witness; 24 25 I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent _____ was requested by the deponent or a party before the completion of the deposition and returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains changes and the reasons therefor; _____ was not requested by the deponent or a party before the completion of the deposition. I further certify that I am neither attorney nor counsel for, related to, nor employed by any of the parties to the action in which this testimony was taken. Further, I am not a relative or employee of any attorney of record in this cause, nor do I have a financial interest in the action.</p>	

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